

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

* * *

HOBART CORPORATION,

et al.,

Plaintiffs,

CASE NO. 3:13-cv-115

vs.

VOLUME II

THE DAYTON POWER AND LIGHT

COMPANY, et al.,

Defendants.

* * *

Deposition of EDWARD GRILLOT, Witness
herein, called by the Plaintiffs for direct
examination pursuant to the Rules of Civil
Procedure, taken before me, Barbara A. Nikolai, a
Notary Public in and for the State of Ohio, at
Sebaly, Shillito + Dyer, 1900 Kettering Tower,
40 North Main Street, 13th Floor Conference Room,
Dayton, Ohio, on Tuesday, December 17th, 2013, at
9:01 o'clock a.m.

* * *

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| 2 | (Thereupon, Defendants' Exhibit | 308 |
| 3 | Number 2, dumping receipt tickets, | |
| 4 | was marked for purposes of | |
| 5 | identification.) | |
| 6 | (Thereupon, Defendants' Exhibit | 446 |
| 7 | Number 3, petition to enter a plea | |
| 8 | of guilty, was marked for purposes | |
| 9 | of identification.) | |
| 10 | (Thereupon, Defendants' Exhibit | 464 |
| 11 | Number 4, South Dayton Dump and | |
| 12 | Landfill site map, was marked for | |
| 13 | purposes of identification.) | |
| 14 | (Thereupon, Defendants' Exhibit | 507 |
| 15 | Number 5, South Dayton Dump and Land | |
| 16 | Site map, was marked for purposes of | |
| 17 | identification.) | |
| 18 | (Thereupon, Defendants' Exhibit | 649 |
| 19 | Number 6, Google map, was marked for | |
| 20 | purposes of identification.) | |
| 21 | (Thereupon, Defendants' Exhibit | 658 |
| 22 | Number 7, photocopy of a color | |
| 23 | photograph of a Container Service | |
| 24 | truck, was marked for purposes of | |
| 25 | identification.) | |

1 (Thereupon, Defendants' Exhibit 666
2 Number 8, deposition of Michael A.
3 Wendling, was marked for purposes of
4 identification.)

5 (Thereupon, Defendants' Exhibit 669
6 Number 9, deposition of Horace
7 Boesch, Jr., taken on the 28th day
8 of February, 2006, was marked for
9 purposes of identification.)

10 (Thereupon, Defendants' Exhibit 685
11 Number 10, deposition of Horace
12 Boesch, Jr., taken on December 1st,
13 2011, was marked for purposes of
14 identification.)

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* * *

09:01:51 1 MR. ANDREASEN: Would the people on
09:01:52 2 the phone please identify themselves for the court
09:01:52 3 reporter?

09:01:56 4 MR. WICK: Bill Wick, Wactor and
09:01:56 5 Wick, for Bridgestone Americas Tire Operations,
09:01:56 6 LLC.

09:01:56 7 MS. VANDEGRIFT: Sasha VanDeGrift
09:01:56 8 sitting in for Shannon Costello representing
09:02:13 9 Fickert Development Corporation and Dayton
09:02:14 10 Industrial Drum.

09:02:14 11 MR. SHARETT: Anthony Sharett,
09:02:17 12 Bricker and Eckler, on behalf of Dayton Power and
09:02:20 13 Light.

09:02:24 14 MS. HUNT: Ann Hunt, McDonald Hopkins
09:02:24 15 for Day International.

09:02:28 16 MR. SAXTON: John Saxton on behalf of
09:02:30 17 Peerless.

09:02:30 18 MR. HARRIS: Glenn Harris, Ballard
09:02:37 19 Spahr, on behalf of GlaxoSmithKline.

09:02:39 20 MS. WRIGHT: Vicki Wright for
09:02:43 21 Pharmacia, LLC.

09:02:43 22 MR. KOTTHA: Arun Kottha filling in
09:03:02 23 for Marty Lewis on behalf of Valley Asphalt.

09:03:08 24 MR. ANDREASEN: Anyone else on the
09:03:08 25 phone?

09:03:08 1 EDWARD GRILLOT
09:03:08 2 of lawful age, Witness herein, having been first
3 duly cautioned and sworn, as hereinafter
4 certified, was examined and said as follows:

5 CROSS-EXAMINATION

09:03:20 6 BY MR. ANDREASEN:

09:03:20 7 Q. Mr. Grillo, my name is John
09:03:22 8 Andreasen, and I want to go over a few things
09:03:26 9 that you testified about yesterday.

09:03:29 10 Yesterday you indicated the
09:03:31 11 medications that you've been on on a regular
09:03:33 12 basis. Are there any medications that you're
09:03:35 13 on that would impair your ability to understand
09:03:39 14 questions or speak truthfully in your answers?

09:03:42 15 A. No.

09:03:45 16 Q. Could we see Exhibit 3 from the
09:03:51 17 previous deposition? It's the ones with the
09:03:56 18 receipts.

09:04:07 19 MR. ANDREASEN: Do you have that?

09:04:07 20 MR. HAUGHEY: Could we go off the
09:04:07 21 record?

09:04:07 22 (Thereupon, an off-the-record
09:04:07 23 discussion was had.)

09:04:09 24 BY MR. ANDREASEN:

09:04:09 25 Q. On that exhibit, you testified

09:04:34 1 yesterday that those are receipts from trips to
09:04:39 2 the landfill, is that correct?

09:04:40 3 A. Correct.

09:04:41 4 Q. Okay. The top two receipts, the
09:04:45 5 ones in the middle of the page, both have
09:04:48 6 handwritten on them DPL. Does that indicate
09:04:53 7 who the customer was that brought the waste to
09:04:53 8 the landfill?

09:04:57 9 A. No, that's a D, DP&L.

09:04:59 10 Q. That's what I -- I'm sorry. DPL?

09:05:01 11 A. Yeah, Dayton Power and Light.

09:05:02 12 Q. Okay. Was a notation like that
09:05:05 13 put on every waste receipt ticket indicating
09:05:09 14 who the customer was?

09:05:11 15 A. To my knowledge, yes.

09:05:12 16 Q. Okay. Prior to the beginning of
09:05:20 17 your deposition yesterday, had you spoken at
09:05:24 18 all to Mr. Aldridge about this matter or the
09:05:29 19 previous lawsuits and your previous deposition?

09:05:32 20 A. You talking about Bob Aldridge?

09:05:33 21 Q. Yes.

09:05:34 22 A. No.

09:05:34 23 Q. Okay. Is Mr. Brandon still alive?

09:05:38 24 A. No.

09:05:38 25 Q. Okay.

09:05:41 1 MR. HAUGHEY: Excuse me. This is
09:05:42 2 Steve Haughey. If we're done with that, can we
09:05:44 3 get that marked --

09:05:44 4 MR. ANDREASEN: Sure.

09:05:45 5 MR. HAUGHEY: -- and go ahead and get
09:05:47 6 it into the record since all of us have it by
09:05:49 7 e-mail, and can we go ahead and mark that as
09:05:55 8 Grillot Deposition Exhibit 3, which is from when
09:05:57 9 it was used in 2012?

09:05:57 10 MR. ANDREASEN: Do we need copies of
09:05:57 11 it?

09:05:59 12 MR. HAUGHEY: No, everybody has that,
09:06:02 13 but the court reporter does not yet have that, so
09:06:02 14 we want to make sure that she can leave here with
09:06:02 15 that.

09:06:08 16 THE WITNESS: Well, this is yours,
09:06:08 17 isn't it?

09:06:10 18 MR. HAUGHEY: Yeah. We'll take
09:06:11 19 Jeff's, you can get it printed again, so we'll
09:06:13 20 take -- we'll keep Jeff's and he can use Jeff's.

09:06:14 21 MR. IRELAND: You can have it.

09:06:14 22 MR. HAUGHEY: All right.

09:06:15 23 MR. ANDREASEN: Thank you.

09:06:15 24 (Thereupon, Defendants' Exhibit
09:06:15 25 Number 2, dumping receipt tickets, was marked for

09:07:16 1 purposes of identification.)

09:07:16 2 BY MR. ANDREASEN:

09:07:16 3 Q. Mr. Grillot, I want to ask you
09:07:18 4 some questions about your testimony yesterday
09:07:22 5 regarding calls. You indicated yesterday that
09:07:29 6 waste was brought to the landfill of McCall's
09:07:34 7 by Container Service, Larry Brandon, is that
09:07:38 8 correct?

09:07:38 9 A. Correct.

09:07:39 10 Q. Okay. When Larry Brandon or
09:07:42 11 someone working for Container Service would
09:07:44 12 bring waste in for -- from McCall's, was a
09:07:50 13 waste receipt ticket filled out?

09:07:53 14 A. Every vehicle, unless it was in
09:07:55 15 the evening, had to go by the office unless
09:08:00 16 they could sneak by, you know, which was very
09:08:05 17 unlikely, somebody would see them, they had to
09:08:07 18 have a ticket.

09:08:07 19 So they had -- apparently they had
09:08:09 20 to take it back to their office, too, but Uncle
09:08:13 21 Alcine wanted to make sure that, you know, he
09:08:15 22 got credit for every load, so, you know, and
09:08:19 23 that was the only way, so --

09:08:20 24 Q. And was McCall's one of the
09:08:24 25 landfill customers that you indicated yesterday

09:08:27 1 was sent bills or invoices at some point in
09:08:37 2 time rather than pay as they came in?

09:08:41 3 A. No, the -- you had to have a
09:08:44 4 ticket. I stapled it alphabetically. Then it
09:08:48 5 went to Alcine's hand and then it went to
09:08:51 6 his -- Leone, which was his wife.

09:08:53 7 And after that, I indicated I
09:08:55 8 didn't know what kind of invoice, you know, or
09:08:58 9 anything like that, so --

09:08:59 10 Q. Do you know whether or not when
09:09:01 11 Container Service would bring in waste from
09:09:04 12 McCall's, that they would pay at the gate for
09:09:08 13 that waste?

09:09:10 14 A. No.

09:09:11 15 Q. No, you don't know, or, no, they
09:09:13 16 did not?

09:09:14 17 A. No, I don't know.

09:09:15 18 Q. Okay. When customer service -- or
09:09:20 19 Container Service would bring in waste from
09:09:24 20 McCall's, would that truck, that Container
09:09:29 21 Service truck, also have waste from other
09:09:32 22 customers?

09:09:35 23 A. No, because when the Dumpster
09:09:38 24 started being developed, they came up with one
09:09:41 25 that had a push where they could compact, and

09:09:45 1 so when they put it on a rollback, it went
09:09:50 2 directly from the spot that it sat directly to
09:09:54 3 the dump, so they didn't go anywhere else to,
09:09:57 4 you know, pick stuff up.

09:09:59 5 Q. So if the truck only had half a
09:10:03 6 load, it wouldn't pick up waste from any other
09:10:05 7 customer to make a full load?

09:10:07 8 A. No, no, because you have to
09:10:08 9 understand when it goes into the pot where
09:10:10 10 the -- the Dumpster is, it connects to a
09:10:14 11 machine which pushes, and so when they pull it
09:10:17 12 off -- you know, I have never heard or never
09:10:21 13 seen that they would take and go reconnect it
09:10:23 14 to another machine, but it's possible.

09:10:26 15 Q. So did the Container Service truck
09:10:32 16 have some kind of a hydraulic lift or something
09:10:35 17 that would lift up a Dumpster from the
09:10:37 18 customer's location?

09:10:38 19 A. It has a hook and you hook it onto
09:10:42 20 the hook on the Dumpster, and then it would
09:10:47 21 pull it up with a -- a crank and then -- on top
09:10:51 22 of the truck, and then you'd lower it back
09:10:53 23 down.

09:10:54 24 Q. So did Container Service provide
09:10:58 25 the Dumpsters to the customers that they picked

09:11:01 1 up from?

09:11:01 2 A. They came from Ed -- I forgot his
09:11:12 3 name, but he was the third entity within Larry
09:11:16 4 Brandon and Bob Aldridge operation. He made
09:11:20 5 these Dumpsters.

09:11:22 6 They welded them there, they got
09:11:24 7 the -- the raw material and welded them
09:11:26 8 together, built them there, and that's where I
09:11:28 9 indicated before, that I painted, and so I know
09:11:32 10 they made them from there, so --

09:11:33 11 Q. Do you know whether or not the
09:11:39 12 Dumpsters that came from McCall's were full on
09:11:51 13 every trip to the dump?

09:11:52 14 A. Yeah, because they -- sometimes
09:11:54 15 they'd stick out and they'd have -- they had to
09:11:56 16 put a net so the paper wouldn't blow out from
09:12:00 17 behind, because when I had shoveled snow that
09:12:05 18 one year, one of my jobs was to make sure --
09:12:08 19 because a lot of the paper, when they'd pull
09:12:09 20 away, would get down in the Dumpster pit where
09:12:12 21 the Dumpster was, and I had to clean that up so
09:12:14 22 that the net -- you could tell it was full.

09:12:17 23 Q. Okay. And you indicated yesterday
09:12:22 24 that you started hanging out and working at the
09:12:28 25 dump when you were eight years old, is that

09:12:30 1 correct?

09:12:30 2 A. Um-hum.

09:12:31 3 Q. So that would have been 1960?

09:12:33 4 A. You know, I remember younger
09:12:35 5 times, but, yeah, that was my best
09:12:36 6 recollection.

09:12:37 7 Q. Okay. And at that point in time,
09:12:39 8 you were in elementary school, correct?

09:12:42 9 A. (Witness nodding head up and
09:12:43 10 down.)

09:12:43 11 Q. Okay. And then I think you
09:12:46 12 testified that you continued working at the
09:12:50 13 dump until you were 18 years old or 17 years --
09:12:55 14 16 years old, sorry?

09:12:57 15 A. Well, that's when -- till to the
09:13:00 16 point where I found other employment, and then
09:13:03 17 I'd go there, I mentioned, either in the
09:13:05 18 evenings -- you know, I'd get off work maybe at
09:13:07 19 two at Liberal's Markets and then I'd go down
09:13:11 20 and help Kenny out for a few hours before they
09:13:12 21 closed down at 5:30 and then on the weekends.

09:13:15 22 Q. And did you do that also when you
09:13:18 23 worked at Doyle?

09:13:19 24 A. Yeah, um-hum.

09:13:20 25 Q. Okay. And you started working at

09:13:22 1 Doyle when you were 16, correct?

09:13:25 2 A. Yes.

09:13:25 3 Q. Okay. So at that point in time
09:13:32 4 before you quit school and went to work at
09:13:36 5 Doyle, you would have been in junior high, is
09:13:40 6 that correct?

09:13:40 7 A. Yes.

09:13:41 8 Q. So during the period from at least
09:13:49 9 1960 until 1968, you were in school and worked
09:13:56 10 at the dump part-time?

09:13:59 11 A. Yes.

09:14:00 12 Q. Okay. Was there ever a point in
09:14:06 13 time between 1960 when you were eight years old
09:14:14 14 and the mid '80s, when you say you stopped
09:14:17 15 working at the landfill, that you worked at the
09:14:20 16 landfill full-time?

09:14:23 17 A. Yeah. It would have been mostly
09:14:26 18 like spring, summer and fall.

09:14:27 19 Q. During that entire period of time?

09:14:29 20 A. Yeah, um-hum.

09:14:30 21 Q. Okay.

09:14:37 22 A. Other than the weekends. On the
09:14:39 23 weekends I went there and worked to make a
09:14:41 24 little bit of extra money, so --

09:14:42 25 Q. And the landfill was open on the

09:14:45 1 weekends?

09:14:45 2 A. Saturday. Now, Sunday, I'd go
09:14:48 3 there and do things basically for myself. I
09:14:52 4 mean, I'd get TVs and get wood for Dad's
09:14:55 5 fireplace, stuff like that, so --

09:14:58 6 Q. But no trucks would come in on
09:15:01 7 Sundays?

09:15:04 8 A. No.

09:15:04 9 Q. Okay. But they did come in on
09:15:06 10 Saturdays?

09:15:07 11 A. Yes.

09:15:07 12 Q. All day Saturday?

09:15:08 13 A. Yes.

09:15:08 14 Q. Okay. How many times did you see
09:15:16 15 or how many times can you recall seeing a
09:15:20 16 Container Service truck bringing waste to the
09:15:24 17 landfill from McCall's?

09:15:28 18 A. At least once a day.

09:15:31 19 Q. And those Dumpsters were always
09:15:31 20 full?

09:15:34 21 A. Yes, um-hum.

09:15:35 22 Q. Every day?

09:15:36 23 A. Just about, yeah.

09:15:37 24 Q. Okay. You indicated yesterday
09:15:45 25 that the waste consisted of cardboard from

09:15:49 1 McCall's, correct?

09:15:50 2 A. Um-hum.

09:15:50 3 Q. And what happened to that
09:15:52 4 cardboard?

09:15:53 5 A. The cardboard went into -- on the
09:15:56 6 top tier, which was collected for salvage.

09:16:02 7 Q. Okay. And then it was shipped
09:16:04 8 offsite?

09:16:05 9 A. Yes.

09:16:05 10 Q. You indicated that the waste also
09:16:08 11 contained some paper?

09:16:09 12 A. Correct.

09:16:09 13 Q. And I think you indicated that the
09:16:12 14 paper was separated from the other waste?

09:16:16 15 A. If it had ink on it, it was sent
09:16:21 16 down to the third tier for bury, and then if it
09:16:25 17 didn't have ink, it was -- could be shredded
09:16:32 18 for Larry Brandon's operation, which was Dayton
09:16:35 19 Fiber.

09:16:36 20 He would have -- it wasn't till he
09:16:38 21 got -- had -- had hired two other guys to put
09:16:43 22 the newspaper and stuff into the other dump
09:16:46 23 truck -- I mean, the trash truck.

09:16:48 24 Q. Okay. So is it those two other
09:16:50 25 guys that would separate the paper out from the

09:16:52 1 other waste?

09:16:53 2 A. Right.

09:16:53 3 Q. Before the waste went anywhere on
09:16:56 4 the landfill?

09:16:57 5 A. Right.

09:16:57 6 Q. Do you remember those gentlemen's
09:16:57 7 names?

09:17:03 8 A. No, I do not.

09:17:04 9 Q. I think you indicated that there
09:17:14 10 were pallets and skids from McCall's?

09:17:16 11 A. Yeah.

09:17:16 12 Q. Were those in the Dumpster?

09:17:18 13 A. No.

09:17:18 14 Q. How did those come in?

09:17:24 15 A. Usually Brandon would have -- they
09:17:29 16 had like a pickup truck that they used to put
09:17:35 17 the wood and stuff on and it would come that
09:17:39 18 way, because you couldn't put them in the
09:17:41 19 packer because the packer only had a entrance
09:17:45 20 from the packer about that big (indicating), so
09:17:49 21 there wasn't -- they didn't come in the same
09:17:52 22 vehicle.

09:17:52 23 Q. Now, you're using your hands to
09:17:55 24 indicate size. Could you tell me approximately
09:17:57 25 what size that opening was in the packer?

09:18:02 1 A. Probably 24 by 24 maybe.

09:18:09 2 Q. Okay. Did the pallets and skids
09:18:19 3 from McCall's come in a Container Service
09:18:25 4 vehicle?

09:18:25 5 A. Yes.

09:18:26 6 Q. Okay. And were the vehicles --
09:18:30 7 the Container Service vehicles that brought in
09:18:33 8 the cardboard and paper waste and the trucks
09:18:37 9 that brought in the pallets and skids, did
09:18:40 10 those all have some type of a logo or writing
09:18:44 11 on them indicating that they were Container
09:18:46 12 Service trucks?

09:18:48 13 A. Most of the time, yes.

09:18:50 14 Q. Okay. Now, when you were in
09:18:53 15 elementary school and junior high, what time
09:18:59 16 would you go to the landfill?

09:19:03 17 A. It varied. We had -- I think I
09:19:05 18 got out of school like 2:30 maybe, then I'd go
09:19:09 19 home and change and then go down there for a
09:19:12 20 couple hours.

09:19:13 21 Q. What time would the Container
09:19:16 22 Service trucks that contained McCall's waste
09:19:19 23 come to the landfill?

09:19:21 24 A. It would vary. Most of the time
09:19:25 25 about maybe two o'clock, three o'clock,

09:19:27 1 something like that. At the end of the day, I
09:19:30 2 guess, after they got -- got full.

09:19:33 3 Q. So when you say that the waste
09:19:38 4 came in every day, were you always there every
09:19:44 5 day when that waste would come in from
09:19:46 6 McCall's?

09:19:46 7 A. No.

09:19:47 8 Q. Then how do you know that it came
09:19:49 9 in every day?

09:19:50 10 A. Because when I got there, then I
09:19:52 11 would have to either help separate the
09:19:58 12 newspaper, cardboard and what went down on the
09:20:01 13 third tier and put it in skids that had walls
09:20:06 14 on it and we'd take it out from the load.

09:20:10 15 We had to clean the skid off --
09:20:11 16 the pad off as quick as we could, because, you
09:20:14 17 know, the other big trucks would bring the
09:20:17 18 skids and that was more indicated, and if they
09:20:21 19 came and dumped it where we didn't want it
09:20:24 20 where it was right in front of the incinerator,
09:20:27 21 then we'd mess up the whole operation, so --
09:20:32 22 and normally they either got close to where we
09:20:34 23 couldn't get the incinerator going, because the
09:20:36 24 spark would have caught -- because it was
09:20:38 25 paper, and so it would start the whole pad on

09:20:40 1 fire, so I would know by getting there and
09:20:42 2 having to help separate.

09:20:43 3 Q. And your memory is that you did
09:20:45 4 that every day?

09:20:48 5 A. Just about, yeah.

09:20:49 6 Q. For McCall's waste?

09:20:53 7 A. Well, there was a couple other
09:20:56 8 companies that brought mostly cardboard and it
09:20:59 9 was on -- tried to be dumped in the same area,
09:21:03 10 yes.

09:21:03 11 Q. But every day from 1960 to 1978,
09:21:10 12 you personally separated McCall's waste?

09:21:10 13 A. No.

09:21:28 14 Q. Oh, I'm sorry, yes. Thank you.
09:21:30 15 1960 to 1968, I meant to say.

09:21:33 16 A. Right.

09:21:34 17 Q. Every day you did not separate
09:21:34 18 McCall waste, correct?

09:21:40 19 A. Not every day, no.

09:21:40 20 Q. Okay. Now, yesterday you
09:21:44 21 testified that Container Service would bring in
09:21:48 22 McCall's waste a couple times per week.

09:21:53 23 A. That was probably indicating the
09:21:56 24 skid. The skids wasn't as often because it was
09:22:01 25 a company that had more paper waste than it did

09:22:04 1 wood waste, so --

09:22:05 2 Q. Did any of McCall's waste go to
09:22:13 3 the incinerator?

09:22:13 4 A. Skids.

09:22:14 5 Q. Okay.

09:22:16 6 A. Unless they'd be separated and
09:22:18 7 they were good skids, and then they would go to
09:22:21 8 Skid Row.

09:22:22 9 Q. Okay. So who made the
09:22:25 10 determination whether the skids went to the
09:22:27 11 incinerator or to Skid Row?

09:22:29 12 A. The person picking up the skid and
09:22:32 13 inspecting it to see if it was all together and
09:22:35 14 well nailed down. At first -- yeah, yeah,
09:22:42 15 yeah, I'm sorry.

09:22:42 16 Q. So these skids and pallets came in
09:22:46 17 maybe a couple times per week, is that correct?

09:22:48 18 A. Correct.

09:22:48 19 Q. Okay. And did those come in while
09:22:55 20 you were personally at the landfill?

09:22:58 21 A. I don't know.

09:23:00 22 Q. Okay. Then how do you know how
09:23:03 23 often they came in?

09:23:05 24 A. Because my cousin and I pretty
09:23:10 25 much knowed. We had a routine down and we

09:23:12 1 expected, so we tried to keep areas open where
09:23:17 2 they could be put, because usually McCall's
09:23:21 3 skids weren't beat up like the other companies.
09:23:25 4 They were pretty good shape. So we'd put them
09:23:27 5 over where we knew that very few would go in
09:23:29 6 the incinerator, so --

09:23:30 7 Q. So usually McCall's skids went to
09:23:34 8 Skid Row, is that correct?

09:23:34 9 A. Correct.

09:23:35 10 Q. How about the pallets?

09:23:36 11 A. The pallets and skids are --

09:23:38 12 Q. The same thing?

09:23:38 13 A. Same thing, yeah.

09:23:40 14 Q. Okay. So when you say skids,
09:23:42 15 you're referring to skids and pallets?

09:23:43 16 A. Correct.

09:23:44 17 Q. So most of McCall's pallets went
09:23:46 18 to Skid Row, also?

09:23:48 19 A. Well, in my mind, I'm putting them
09:23:51 20 in the same category, so I'd say yes.

09:23:53 21 Q. How many times per month would the
09:24:05 22 pit catch on fire?

09:24:12 23 A. A couple times.

09:24:15 24 Q. A couple times per month?

09:24:16 25 A. Yeah.

09:24:17 1 Q. Okay. And am I correct in
09:24:20 2 assuming that the pit mostly contained liquid
09:24:25 3 type waste?

09:24:26 4 A. Correct.

09:24:26 5 Q. Okay.

09:24:29 6 A. And the -- the metal cones that I
09:24:33 7 spoke about.

09:24:34 8 Q. Okay. Now, after 1968 when you
09:24:46 9 went to work for Doyle's and then Liberty
09:24:50 10 (sic), did you personally observe McCall waste
09:24:54 11 coming to the landfill?

09:24:56 12 A. I didn't understand. You said one
09:25:00 13 company and then I thought I heard -- say
09:25:02 14 another?

09:25:02 15 Q. I think you said that you
09:25:05 16 worked -- after you turned 16, you worked at
09:25:07 17 Doyle and you worked at -- is it Liberty?

09:25:10 18 A. No, Liberal Markets.

09:25:11 19 Q. Liberal Markets. Okay. During
09:25:12 20 that time, did you personally see McCall waste
09:25:15 21 come into the landfill?

09:25:18 22 A. Well, then, again, when I -- after
09:25:21 23 work or whatever, I would go there to help
09:25:24 24 separate the cardboard from the paper, yeah, I
09:25:30 25 would see the remnants of what was left.

09:25:34 1 Q. What did the cardboard waste look
09:25:37 2 like from McCall's?

09:25:39 3 A. Boxes broke down.

09:25:42 4 Q. Did they have the McCall's writing
09:25:45 5 on them or logo?

09:25:46 6 A. I don't know.

09:25:48 7 Q. So how do you know that cardboard
09:25:53 8 that you would see at the end of the day had
09:25:55 9 come from McCall's?

09:25:57 10 A. Because the packer would push
09:26:01 11 everything so tightly together, it was almost
09:26:04 12 taking a loaf of bread that was sliced, and
09:26:08 13 when they would drop it off onto the pad, it
09:26:11 14 would all be laying in an order that you knew
09:26:14 15 it was from McCall's because, you know, all the
09:26:19 16 paper would say McCall's in front of -- you
09:26:21 17 know, like a magazine, front of a magazine,
09:26:24 18 where it said McCall's, and there was various
09:26:27 19 other types of magazines that -- but I'm not
09:26:30 20 sure what the name of them were, but like Bend
09:26:35 21 an Ear (phonetic), or, you know -- but they
09:26:36 22 made other things for other companies, so --

09:26:37 23 Q. You testified yesterday that the
09:26:45 24 McCall's waste included breakfast and lunch
09:26:48 25 debris, is that correct?

09:26:51 1 A. Yeah, but that wasn't so often,
09:26:54 2 but it -- we didn't like it. It wasn't
09:26:55 3 supposed to be there, so, you know. But
09:26:58 4 sometimes they'd throw like a bag of trash and
09:27:02 5 it got packed and it would be pretty gooey, you
09:27:04 6 know, from people's lunches and stuff, so it --
09:27:07 7 it was in there.

09:27:08 8 Q. Okay. And what happened to that
09:27:10 9 waste?

09:27:11 10 A. It went down to the third pier for
09:27:11 11 bury.

09:27:25 12 Q. Okay. And you indicated that
09:27:25 13 there was also ink cartridges that came from
09:27:29 14 McCall's, is that correct?

09:27:30 15 A. Correct.

09:27:31 16 Q. Were those ink cartridges in the
09:27:38 17 compactor?

09:27:39 18 A. Yeah.

09:27:39 19 Q. What color was the ink?

09:27:48 20 A. Various, but mostly yellow, I
09:27:51 21 believe.

09:27:51 22 Q. In a given Dumpster delivery, how
09:28:00 23 many ink cartridges would be in it?

09:28:04 24 A. It would vary. Sometimes there
09:28:07 25 would be none and sometimes there would be a

09:28:09 1 few and then sometimes there would be a lot of
09:28:11 2 them, you know, it varied.

09:28:12 3 Q. How much is a lot?

09:28:16 4 A. Twenty, 30 cartridges maybe.

09:28:19 5 Q. And these were basically caulking
09:28:21 6 tubes, is that correct, similar to caulking
09:28:24 7 tubes?

09:28:24 8 A. Yes. Yes.

09:28:25 9 Q. Okay. And when you would get to
09:28:36 10 work in the afternoon after school, were those
09:28:40 11 ink cartridges still located among the paper
09:28:46 12 and the cardboard?

09:28:47 13 A. Unless they got most of it done,
09:28:52 14 it would be all over the place, and we kind of
09:28:55 15 hated it because if -- if the tractor rolled
09:28:58 16 over, it would spread everywhere.

09:29:01 17 So you could tell, because it
09:29:02 18 would be all over the pad, so --

09:29:04 19 Q. And if it was already done by the
09:29:06 20 time you got there after school, who would have
09:29:11 21 taken care of that?

09:29:11 22 A. If it wasn't David, my cousin,
09:29:16 23 then it might have been two -- four of the
09:29:21 24 gentlemen that were working the trash trucks
09:29:24 25 that worked for Larry Brandon.

09:29:26 1 Q. And you don't recall their names
09:29:29 2 at all?

09:29:29 3 A. No.

09:29:31 4 Q. You said there were four of them.
09:29:33 5 Did four come every time in a truck when a load
09:29:37 6 came in from McCall's?

09:29:38 7 A. Well, two worked the cardboard
09:29:40 8 trash truck and then two -- they did -- the
09:29:42 9 two -- the paper guys didn't come until later
09:29:46 10 after Larry Brandon had opened up Dayton
09:29:51 11 Fiber.

09:29:51 12 So for the first part of the
09:29:55 13 operation, there was just two guys, and then
09:29:57 14 after he started Dayton Fiber, there were four,
09:29:59 15 but they weren't there all the time.

09:30:04 16 Q. Yesterday you testified that the
09:30:06 17 ink went into barrels and then to the pit. Do
09:30:06 18 you recall that?

09:30:12 19 A. Yes, um-hum.

09:30:12 20 Q. Who put the ink in the barrels?

09:30:15 21 A. All six of us.

09:30:17 22 Q. And how would you do that? Would
09:30:21 23 you cut the cartridges open?

09:30:23 24 A. No, no, we'd put on a pair of
09:30:25 25 gloves and pick them up because they were all

09:30:28 1 mushy, and we'd dropped them -- cartridge --
09:30:33 2 paper, cartridge and all and the ink.

09:30:34 3 Q. Oh, so the cartridges themselves
09:30:36 4 went into this barrel?

09:30:37 5 A. Yeah, um-hum.

09:30:38 6 Q. Okay. So you didn't --

09:30:41 7 A. No. I'm sorry.

09:30:41 8 Q. Go ahead.

09:30:41 9 A. I was just going to say there was
09:30:43 10 no way -- unless you scooped it out with your
09:30:45 11 finger, there was no way to separate the two,
09:30:47 12 so --

09:30:48 13 Q. Okay. So cartridge and all would
09:30:51 14 go to the pit and get burnt?

09:30:53 15 A. No, it would go to pier three
09:30:55 16 where it would be buried.

09:30:56 17 Q. Okay. So yesterday you testified
09:31:04 18 that the ink went into barrels and then to the
09:31:06 19 pit. Is that a burn pit or a burial pit?

09:31:12 20 A. Well, I might have made it sound
09:31:17 21 like -- the third pier was the pier that would
09:31:21 22 cover --

09:31:22 23 Q. Excuse me a minute. Do you mean
09:31:24 24 tier or pier?

09:31:25 25 A. Tier. I'm sorry.

09:31:26 1 Q. Tier. Okay. Thank you.

09:31:28 2 A. The third tier was eventually --
09:31:30 3 because it stood maybe 12 feet higher than the
09:31:33 4 pit, and it just kept pushing over the pit, and
09:31:37 5 eventually it would have been -- the pit would
09:31:39 6 have been totally covered. So it was that
09:31:42 7 stuff that would lay on top of the pit.

09:31:45 8 So the two, sometimes to me, was
09:31:49 9 the same thing, so --

09:31:50 10 Q. Okay. So I may have misunderstood
09:31:52 11 you yesterday. Did any of the ink from
09:31:56 12 McCall's get burnt?

09:31:57 13 A. No.

09:31:57 14 Q. Okay.

09:31:58 15 A. No. Because I thought I said we
09:32:05 16 weren't allowed, other than skids, paper,
09:32:08 17 cardboards, any other debris even knobs off of
09:32:11 18 a door, wasn't allowed into the fire pit,
09:32:15 19 because remember I had said I had to take
09:32:17 20 hinges off, so --

09:32:19 21 Q. So when you testified yesterday
09:32:22 22 about liquids, from any customer of the
09:32:29 23 landfill, did any of those liquids ever get
09:32:33 24 burnt?

09:32:33 25 A. No. No.

09:32:33 1 Q. Okay. When was the first time you
09:32:41 2 recall seeing waste come to the landfill from
09:32:44 3 McCall's?

09:32:48 4 A. Well, it probably wasn't till the
09:32:53 5 winter I worked for Larry Brandon and removed
09:32:58 6 snow from McCall's and actually worked at
09:33:02 7 McCall's.

09:33:03 8 See, Larry Brandon, his employees
09:33:06 9 were allowed to come and go, they were sort of
09:33:09 10 like employees of McCall's, but they were
09:33:13 11 subcontractors, I guess you'd say.

09:33:15 12 And so it wasn't till then that I
09:33:18 13 realized and paid more attention to McCall's,
09:33:21 14 but before, I just thought they were -- you
09:33:23 15 know, other than seeing McCall's letterhead on
09:33:28 16 magazines and stuff, I really didn't pay much
09:33:30 17 attention, but after that, I did.

09:33:32 18 Q. Okay. That's what I'm asking.
09:33:34 19 When was the first time that you recall seeing
09:33:38 20 waste from McCall's at the landfill?

09:33:40 21 A. So you want a date?

09:33:42 22 Q. As best as you can define it.

09:33:46 23 A. '68.

09:33:46 24 Q. Okay. What year did you work for
09:33:51 25 Larry Brandon at McCall's?

09:33:55 1 A. That was '68.

09:33:55 2 Q. So prior to '68, you don't recall
09:33:58 3 seeing any waste from McCall's at the landfill?

09:34:02 4 A. Yes, I did.

09:34:05 5 Q. I asked you, when is the first
09:34:07 6 time you recall seeing waste at the landfill
09:34:12 7 from McCall's?

09:34:14 8 A. Well, like I just said a few
09:34:17 9 minutes ago, if I saw a letterhead and it said
09:34:20 10 McCall's, but it really didn't stick with me
09:34:23 11 real well until after I worked there, because
09:34:24 12 I -- oh, I used to work here -- or I worked
09:34:26 13 there, you know, so -- but seeing magazines and
09:34:28 14 stuff, just sometimes a full magazine would get
09:34:30 15 in there and we'd look at it, so, you know.

09:34:32 16 Q. When was the first time?

09:34:35 17 A. A year would have been '63 maybe.

09:34:46 18 Q. When was the last time you
09:34:49 19 personally saw waste from McCall's come to the
09:34:54 20 landfill?

09:35:02 21 A. Early '70s, maybe '72.

09:35:15 22 Q. What was the name of Larry
09:35:18 23 Brandon's company that did work at McCall's?

09:35:24 24 A. Container Service.

09:35:27 25 Q. So besides providing waste removal

09:35:33 1 from McCall's, Container Service did other work
09:35:37 2 at McCall's?

09:35:39 3 A. No. I mean, they -- their team
09:35:44 4 that was hired to be there worked the
09:35:50 5 compactor, if it broke down, would be able to
09:35:53 6 service it and would take the skids and put
09:35:57 7 them on the pickup truck, so -- but I did say,
09:36:01 8 they can come and go as they please, you know,
09:36:03 9 they didn't actually, you know, go to other
09:36:06 10 buildings, I don't believe.

09:36:07 11 Q. Were they full-time at McCall's?

09:36:10 12 A. Yes.

09:36:11 13 Q. But they were not McCall's
09:36:13 14 employees --

09:36:13 15 A. No.

09:36:14 16 Q. -- they were Container Service
09:36:15 17 employees?

09:36:15 18 A. Right.

09:36:15 19 Q. Were you a Container Service
09:36:17 20 employee when you worked at McCall's?

09:36:19 21 A. Yes.

09:36:33 22 MR. COUGHLIN: Did someone join or
09:36:35 23 drop off?

09:36:36 24 MR. ANDREASEN: Did someone join the
09:36:37 25 call that didn't previously identify themselves?

09:36:43 1 Thank you.

09:36:43 2 BY MR. ANDREASEN:

09:36:57 3 Q. When the burn pit stopped
09:37:00 4 operating -- I think you testified yesterday
09:37:04 5 there was some point in time where you could no
09:37:06 6 longer use the burn pit, is that correct?

09:37:08 7 A. Well, it was very hard, but we
09:37:11 8 used it till the concrete one was fully in
09:37:15 9 operation, so, you know, business went on as
09:37:19 10 usual, but there wasn't a shutdown time.

09:37:24 11 Q. So during the entire period of
09:37:26 12 time that you worked at the landfill, there was
09:37:30 13 waste being burned or incinerated in some form
09:37:33 14 or another?

09:37:34 15 A. Correct.

09:37:34 16 Q. Yesterday you identified customers
09:38:00 17 that had keys to the gate lock at the landfill.

09:38:05 18 A. Correct.

09:38:06 19 Q. One of the customers that you
09:38:08 20 identified was McCall's.

09:38:14 21 A. Correct.

09:38:15 22 Q. Why did McCall's need a key to the
09:38:18 23 landfill if Container Service collected their
09:38:22 24 waste?

09:38:23 25 A. It was prior to when Larry had

09:38:28 1 hired full-time employees at McCall's, and I
09:38:33 2 don't recall the years. It would have been
09:38:36 3 early '60s when -- before Dumpsters came into
09:38:41 4 existence that they carried the key.

09:38:48 5 And when I say McCall's, I just --
09:38:50 6 I don't know who the drivers were. I don't
09:38:52 7 know if they hired independent, but when I say
09:38:55 8 McCall's, I just say the debris that was left
09:38:59 9 that day was McCall's material.

09:39:05 10 Q. And that material would have been
09:39:06 11 brought in during the day?

09:39:08 12 A. Yes, um-hum.

09:39:08 13 Q. So why did -- wasn't the landfill
09:39:11 14 open?

09:39:17 15 A. No. I'm not sure about that.
09:39:28 16 It -- it might have been a Saturday or -- I'm
09:39:42 17 not sure.

09:39:42 18 Q. Are you sure that someone, an
09:39:44 19 employee of McCall's, had a key to that lock?

09:39:49 20 A. I'm not sure.

09:39:52 21 Q. It could have been an employee of
09:39:54 22 Container Service?

09:39:56 23 A. No, because that particular early
09:39:59 24 time, Container Service really didn't exist,
09:40:03 25 the earlier years.

09:40:04 1 Q. Tell me what you mean by early
09:40:07 2 time or earlier years. What time period are
09:40:11 3 you talking about?

09:40:11 4 A. '60 to maybe '64, something like
09:40:15 5 that.

09:40:16 6 Q. Now, you say that the first time
09:40:18 7 you're aware of McCall's waste coming to the
09:40:20 8 landfill was 1963.

09:40:23 9 A. No, I thought I said '60, but it
09:40:26 10 could have been '63.

09:40:27 11 Q. Was -- the first time that you
09:40:28 12 recall seeing McCall waste being brought to the
09:40:35 13 landfill, was it brought by Container Service?

09:40:39 14 A. Not the first time, no.

09:40:40 15 Q. Who was it brought by?

09:40:42 16 A. Like I said, that's where I'm kind
09:40:46 17 of having a hard time remembering, because I
09:40:48 18 don't -- other than seeing McCall's, who had a
09:40:53 19 key when it was dropped off, I really haven't
09:40:58 20 thought that much about it until now, so --

09:41:06 21 Q. So prior to the time that
09:41:08 22 Container Service brought waste from McCall's
09:41:12 23 to the landfill, you don't know how that waste
09:41:15 24 got there?

09:41:15 25 A. No.

09:41:15 1 Q. When did Container Service begin
09:41:20 2 bringing McCall waste to the landfill?

09:41:22 3 A. Like I said, I think around '64.

09:41:30 4 Q. And did Container -- you testified
09:41:37 5 earlier today that the last time you recall
09:41:40 6 seeing waste from McCall's brought to the
09:41:43 7 landfill was in the early 1970s and possibly
09:41:48 8 1972, correct?

09:41:49 9 A. Um-hum.

09:41:49 10 Q. At that point in time, was the
09:41:53 11 waste brought into the landfill by Container
09:41:56 12 Service?

09:41:56 13 A. I'm sorry, I didn't follow.

09:41:58 14 Q. In the early '70s when McCall's
09:42:02 15 waste was brought to the landfill, was it
09:42:04 16 brought there by Container Service?

09:42:05 17 A. Yes.

09:42:06 18 Q. Now, you testified that these keys
09:42:16 19 to the gate lock also opened the lock at
09:42:20 20 Powell?

09:42:21 21 A. Yes.

09:42:21 22 Q. Okay. So any of the customers
09:42:27 23 that you identified yesterday that had keys to
09:42:32 24 the gate lock at the South Dayton landfill,
09:42:39 25 could have used those keys to open the gate

09:42:42 1 lock at Powell Landfill, is that correct?

09:42:44 2 A. Correct.

09:42:52 3 Q. You testified yesterday that the

09:42:55 4 companies that had the keys, other than

09:42:58 5 McCall's, which you say now you're not sure

09:43:00 6 about, you testified that the companies that

09:43:04 7 you recall having keys were General Refuse,

09:43:07 8 Container Service, GM and Frigidaire. Are

09:43:11 9 there any other customers that you recall today

09:43:14 10 that had keys to the lock?

09:43:17 11 A. Not to my recollection, no.

09:43:18 12 Q. Okay. Did General Refuse ever

09:43:21 13 take waste to the Powell Landfill.

09:43:26 14 A. General Refuge? Yes.

09:43:27 15 Q. Is it Refuge or Refuse with an

09:43:31 16 S E?

09:43:34 17 A. Refuge.

09:43:34 18 Q. Can you spell it?

09:43:36 19 A. No. Well, R E F -- I think it

09:43:42 20 ended with an E. I'm not sure.

09:43:47 21 Q. Okay. So, I'm sorry, I forgot

09:43:48 22 your answer. Did General Refuge ever take

09:43:52 23 waste to the Powell Landfill?

09:43:53 24 A. Yes. Yes.

09:43:54 25 Q. Did Container Service ever take

09:43:56 1 waste to the Powell Landfill?

09:43:59 2 A. Yes.

09:43:59 3 Q. Did GM ever take waste to the
09:44:03 4 Powell Landfill?

09:44:04 5 A. No.

09:44:05 6 Q. Did Frigidaire ever take waste to
09:44:07 7 the Powell Landfill?

09:44:10 8 A. Not to my knowledge.

09:44:13 9 MR. ROMINE: I'm going to object on
09:44:14 10 the grounds that this wasn't covered in direct and
09:44:16 11 it's a violation of the judge's order not to go
09:44:19 12 over material that was gone over before.

09:44:20 13 MR. ANDREASEN: I disagree.

09:44:29 14 BY MR. ANDREASEN:

09:44:29 15 Q. Did Container Service ever take
09:44:33 16 waste from McCall's to the Powell Landfill?

09:44:36 17 MR. ROMINE: Same objection.

09:44:38 18 THE WITNESS: I'm sorry?

09:44:40 19 BY MR. ANDREASEN:

09:44:40 20 Q. Did Container Service ever take
09:44:42 21 waste from McCall's to the Powell Landfill?

09:44:45 22 MR. ROMINE: Same objection.

09:44:46 23 THE WITNESS: Not to my recollection.

09:44:48 24 BY MR. ANDREASEN:

09:44:49 25 Q. And how would you know that they

09:44:51 1 didn't?

09:44:52 2 MR. ROMINE: Same objection.

09:44:54 3 THE WITNESS: I wasn't there till
09:44:56 4 after I started helping Larry over at Powell Road,
09:45:00 5 so, you know, I don't know.

09:45:02 6 BY MR. ANDREASEN:

09:45:03 7 Q. So you don't know whether or not
09:45:04 8 Container Service ever took McCall waste to the
09:45:07 9 Powell Landfill?

09:45:08 10 MR. ROMINE: Same objection.

09:45:10 11 THE WITNESS: I don't know.

09:45:11 12 BY MR. ANDREASEN:

09:45:11 13 Q. Okay. Would you take a look at
09:45:22 14 defendant --

09:45:22 15 MR. ROMINE: I'm not your lawyer,
09:45:22 16 so --

09:45:22 17 THE WITNESS: Huh?

09:45:24 18 MR. ROMINE: I can't give you advice,
09:45:25 19 I'm not your lawyer.

09:45:25 20 THE WITNESS: I'm not feeling good.

09:45:26 21 MR. ROMINE: You're not feeling good?

09:45:27 22 THE WITNESS: No. I'm having a hard
09:45:28 23 time --

09:45:29 24 MR. ROMINE: Take a break.

09:45:31 25 THE WITNESS: -- thinking.

09:45:31 1 MR. ROMINE: Yeah, take a break.

09:45:31 2 MR. ANDREASEN: Okay.

09:45:31 3 MR. COUGHLIN: I'm sorry, did you get
09:45:31 4 that on the record? What did you just say, sir?

09:45:37 5 THE WITNESS: I'm not feeling well
09:45:37 6 and I need to take a small break.

09:45:37 7 MR. COUGHLIN: Did you say something
09:45:41 8 about you're having a hard time thinking?

09:45:41 9 THE WITNESS: Right now, yeah.

09:45:43 10 MR. COUGHLIN: Are you going to be
09:45:43 11 able to continue today?

09:45:45 12 THE WITNESS: I'm going to try. So
09:45:45 13 can we take a break?

09:45:45 14 MR. ANDREASEN: Sure. Sure, whenever
09:45:57 15 you need to.

09:45:57 16 (Pause in proceedings.)

09:48:32 17 MR. ANDREASEN: We're back on the
09:57:11 18 record.

09:57:11 19 BY MR. ANDREASEN:

09:57:13 20 Q. Mr. Grillot, before we took a
09:57:15 21 break, you indicated that you weren't feeling
09:57:18 22 well and having trouble thinking, is that
09:57:18 23 correct?

09:57:18 24 A. Yes.

09:57:20 25 Q. Are you feeling better now, worse

09:57:21 1 or the same as before the break?

09:57:23 2 A. Better.

09:57:24 3 Q. Okay. Was there any point in time
09:57:27 4 yesterday when you didn't feel well and had
09:57:31 5 trouble thinking during your testimony?

09:57:33 6 A. No, I had a good day yesterday.

09:57:35 7 Q. Okay. I want to show you again
09:57:45 8 what's been marked as Defendants' Exhibit
09:57:49 9 Number 2, the waste receipts. We were talking
09:57:56 10 about the handwriting on the middle two tickets
09:58:02 11 that says DPL?

09:58:05 12 A. DP&L, yeah.

09:58:06 13 Q. Okay. Besides Container Service,
09:58:15 14 what other waste haulers in the Dayton area
09:58:22 15 brought waste to the South Dayton Landfill?

09:58:25 16 MR. ROMINE: Same objection.

09:58:28 17 THE WITNESS: Other than indicating
09:58:30 18 to you -- I thought we went over this yesterday,
09:58:34 19 so you want me to make the list again, is that
09:58:37 20 what you're saying?

09:58:37 21 BY MR. ANDREASEN:

09:58:38 22 Q. Just the waste haulers. Did you
09:58:41 23 identify waste haulers or customers yesterday?

09:58:43 24 A. Okay. Waste haulers --

09:58:46 25 MR. ROMINE: Same objection.

09:58:47 1 MR. ANDREASEN: David, can we just
09:58:48 2 have a standing objection?

09:58:51 3 MR. ROMINE: Yes.

09:58:53 4 MR. ANDREASEN: Okay.

09:58:53 5 THE WITNESS: I don't know at this
09:58:54 6 moment.

09:58:54 7 BY MR. ANDREASEN:

09:58:55 8 Q. Okay. If Container Service
09:59:00 9 brought in a load of waste from a customer,
09:59:07 10 would Container Service's name be placed on
09:59:11 11 that waste ticket or the customer's name?

09:59:14 12 A. It would be the customer's name.

09:59:21 13 Q. And the landfill would know what
09:59:30 14 customer's name to put on the ticket based upon
09:59:33 15 being told by the waste hauler where the waste
09:59:36 16 came from?

09:59:37 17 A. Correct.

09:59:51 18 Q. I'm going to hand you what's been
09:59:53 19 marked as Defendants' Exhibit Number 1, and
09:59:57 20 that's the map from yesterday that identifies
10:00:01 21 various landfills in the Dayton area.

10:00:03 22 A. Right.

10:00:04 23 Q. Do you know if waste from McCall's
10:00:13 24 went to any of the landfills indicated on that
10:00:19 25 map other than South Dayton Landfill?

10:00:25 1 A. Over what time period?

10:00:26 2 Q. During the time period that waste
10:00:29 3 was coming to the landfill at South Dayton from
10:00:33 4 McCall's.

10:00:34 5 A. From -- from Larry Brandon's
10:00:37 6 operation or from the other -- early days when
10:00:43 7 I said I didn't know who had hauled waste from
10:00:46 8 McCall's?

10:00:46 9 Q. From the -- from the earliest time
10:00:49 10 that you recall -- recall waste from McCall's
10:00:53 11 coming to South Dayton Landfill to the last
10:00:56 12 time you recall waste from McCall's coming to
10:01:00 13 the South Dayton Landfill, do you know if
10:01:03 14 McCall's waste, during that period of time,
10:01:05 15 went to any of the other landfills indicated on
10:01:09 16 Exhibit 1?

10:01:09 17 A. No.

10:01:10 18 Q. You don't -- no, you don't know?

10:01:12 19 A. I don't know.

10:01:13 20 Q. Okay. The key to the lock on the
10:01:23 21 gate at South Dayton that also opened the lock
10:01:29 22 on the gate at Powell Landfill, did that key
10:01:34 23 open gate locks to any other landfills in the
10:01:39 24 Dayton area?

10:01:40 25 A. No, not -- not to my knowledge.

10:01:43 1 Q. And if you would, please, tell me
10:01:51 2 again, why was this -- why did the same key
10:01:54 3 open the locks at Powell and South Dayton?

10:01:58 4 MR. ROMINE: Asked and answered.

10:01:59 5 THE WITNESS: Because Larry Brandon
10:02:01 6 wanted to make sure no load was sitting out front
10:02:04 7 to get -- of any dump waiting to be dumped. He
10:02:08 8 wanted a steady stream, so also the key would --
10:02:11 9 the key fit various locations of like Larry
10:02:17 10 Brandon's other facilities.

10:02:24 11 BY MR. ANDREASEN:

10:02:24 12 Q. So the same key provided access to
10:02:30 13 the South Dayton Landfill, the Powell Landfill
10:02:37 14 and other facilities owned or operated by Mr.
10:02:41 15 Brandon?

10:02:41 16 A. Correct.

10:02:42 17 Q. Do you know what those other
10:02:44 18 facilities were?

10:02:47 19 A. The gas pumps, the diesel pumps,
10:02:55 20 some of the equipment was chained and locked
10:02:57 21 with a 2246 key. Some other Dumpsters that --
10:03:05 22 I don't know what were in them, but -- you
10:03:08 23 know, so at his site where he serviced the dump
10:03:14 24 trucks and so on and so forth, there was a
10:03:16 25 service building.

10:03:17 1 Q. So all those locks that you just
10:03:23 2 mentioned, were those all located at Larry
10:03:28 3 Brandon's facility?

10:03:29 4 A. Correct.

10:03:30 5 MR. COUGHLIN: Excuse me, did someone
10:03:34 6 join again?

7 MR. ANDREASEN: Did someone join the
8 call?

9 (Thereupon, the court reporter
10 interrupted the proceedings.)

11 (Record read.)

12 BY MR. ANDREASEN:

10:04:07 13 Q. And where was Larry Brandon's
10:04:09 14 facility located?

10:04:12 15 A. They changed the name of the
10:04:15 16 streets so much down there. It was about a
10:04:18 17 quarter mile from the South Dayton Dump.

10:04:21 18 Q. Which direction?

10:04:23 19 A. Going southeast. If it's not
10:04:28 20 called Sandridge, it would be Springboro Pike,
10:04:35 21 South Springboro Pike -- or North Springboro
10:04:37 22 Pike.

10:04:37 23 Q. And did that key unlock any other
10:04:41 24 locks besides the locks you have just
10:04:45 25 mentioned, the two landfills and items at Larry

10:04:50 1 Brandon's facility?

10:04:50 2 A. I don't know at this time, no.

10:05:25 3 MR. ANDREASEN: That's all I have.

10:05:26 4 Thank you, sir.

10:05:27 5 THE WITNESS: Thank you.

10:06:03 6 CROSS-EXAMINATION

10:06:12 7 BY MR. COUGHLIN:

10:06:13 8 Q. Good morning, sir. I'm Bill
10:06:13 9 Coughlin.

10:06:13 10 A. Hi, Bill.

10:06:16 11 Q. And this is without prejudice to
10:06:18 12 any of our objections and motions as of
10:06:21 13 yesterday, but that's legalese that doesn't
10:06:24 14 relate to you, sir.

10:06:25 15 A. Pardon me?

10:06:25 16 Q. That's something that doesn't
10:06:27 17 relate for purposes of the questions I'm going
10:06:30 18 to ask to you.

10:06:31 19 A. Okay.

10:06:31 20 Q. You're feeling well enough to
10:06:34 21 testify now?

10:06:35 22 A. Yeah, much better. Thank you.

10:06:36 23 Q. Able to think --

10:06:37 24 A. Yeah.

10:06:37 25 Q. -- about your answers and give

10:06:39 1 them?

10:06:39 2 A. Yes, sir.

10:06:39 3 Q. Sir, now you recall in your
10:06:43 4 deposition you gave on April 24, 2012, that you
10:06:47 5 did not know how DAP stuff, as you called it,
10:06:52 6 got to the site, correct?

10:06:54 7 MR. ROMINE: Objection. Covers old
10:06:57 8 ground that the judge ordered not to be covered.

10:07:01 9 THE WITNESS: I'm sorry, I --

10:07:03 10 MR. COUGHLIN: Well, let me -- let me
10:07:04 11 address that. Let's have --

10:07:06 12 THE WITNESS: No. May I say
10:07:06 13 something?

10:07:07 14 MR. COUGHLIN: No. Let's clear up
10:07:08 15 the objection first --

10:07:08 16 THE WITNESS: Okay.

10:07:09 17 MR. COUGHLIN: Because I think we
10:07:10 18 should have a continuing objection on that, if
10:07:13 19 that's okay with you, David?

10:07:14 20 MR. ROMINE: No.

10:07:15 21 MR. COUGHLIN: Okay. Well, I think
10:07:16 22 you should, because you'll have to agree, I think,
10:07:20 23 that this is the first time DAP, or anybody acting
10:07:23 24 on behalf of DAP, has had any opportunity
10:07:26 25 whatsoever to examine this witness concerning any

10:07:31 1 aspect of his testimony. That's true, is it not,
10:07:33 2 sir?

10:07:34 3 MR. ROMINE: Ask your questions.

10:07:36 4 MR. COUGHLIN: Do you know of any
10:07:36 5 other opportunity?

10:07:38 6 MR. ROMINE: Ask your questions.

10:07:39 7 MR. COUGHLIN: Well, that's why I'm
10:07:39 8 saying it's not appropriate for you to say that
10:07:43 9 you need to object to every question I'm going to
10:07:46 10 ask this witness, and as you saw from before when
10:07:49 11 you did that, it then prevented him from
10:07:52 12 testifying in answer to Mr. Andreasen's questions,
10:07:55 13 and I don't want that to happen now, do you, sir?

10:07:58 14 MR. ROMINE: Ask your questions.

10:08:00 15 MR. COUGHLIN: So you don't want to
10:08:01 16 answer anything I'm asking about trying to resolve
10:08:04 17 your objections on the record?

10:08:05 18 MR. ROMINE: Ask your questions.

10:08:07 19 MR. COUGHLIN: Yes, sir.

10:08:07 20 MR. HAUGHEY: This is Steve Haughey.
10:08:09 21 I would like to add to the discussion that I'm a
10:08:12 22 bit surprised, David, at your position today,
10:08:14 23 because yesterday when I was doing some of my
10:08:19 24 cross-exam before we had to make changes for
10:08:23 25 purposes of people leaving, you did agree to enter

10:08:27 1 a continuing objection to my questions relating to
10:08:31 2 the testimony that Mr. Grillot provided in 2002
10:08:37 3 (sic), and I said okay and that seemed to work and
10:08:40 4 stop the -- you know, you having to interject so
10:08:43 5 many objections, so why are you changing your
10:08:45 6 position today?

10:08:46 7 MR. ROMINE: This is all time that
10:08:47 8 could be spent for the questioner to ask the
10:08:51 9 witness questions. I'm going to say, ask your
10:08:55 10 questions, I'll object when I think it's
10:08:56 11 appropriate. When it's not appropriate, I won't
10:08:58 12 object.

10:08:59 13 BY MR. COUGHLIN:

10:08:59 14 Q. Mr. Grillot, you recall from your
10:09:07 15 prior deposition that you testified that you
10:09:10 16 did not know how any of, what you call the DAP
10:09:14 17 stuff, got to the site, correct?

10:09:16 18 MR. ROMINE: Objection.
10:09:17 19 Mischaracterizes his former testimony. Go ahead.

10:09:19 20 THE WITNESS: Well --

10:09:19 21 BY MR. COUGHLIN:

10:09:20 22 Q. Sir, is that -- do I state that
10:09:22 23 correctly?

10:09:22 24 A. Well, first of all, you didn't
10:09:24 25 state who you represented. I hear DAP. Is

10:09:26 1 that who you represent?

10:09:27 2 Q. Well, does that affect your
10:09:28 3 answer?

10:09:29 4 A. No, but I'm just trying to make it
10:09:31 5 clear in my mind.

10:09:32 6 Q. Well, let me -- let me make it
10:09:34 7 clear.

10:09:34 8 A. Okay.

10:09:34 9 Q. I represent DAP Products Inc., no
10:09:37 10 comma.

10:09:37 11 A. All right. Good. Okay.

10:09:37 12 Q. It's true, is it not, sir, that
10:09:43 13 you testified in 2012 that you did not know how
10:09:48 14 stuff from DAP, as you called it, got to the
10:09:50 15 site, correct?

10:09:51 16 MR. ROMINE: Same objection.

10:09:53 17 THE WITNESS: I don't recall.

10:09:56 18 BY MR. COUGHLIN:

10:09:56 19 Q. You don't recall your testimony or
10:09:58 20 you don't recall how?

10:10:04 21 A. I don't recall at this moment,
10:10:07 22 because some of the --

10:10:08 23 Q. I didn't ask you why, sir.

10:10:08 24 A. Okay.

10:10:10 25 Q. Let me show you a copy of your

10:10:12 1 testimony --

10:10:12 2 A. Okay.

10:10:12 3 Q. -- from April 24, 2012.

10:10:15 4 A. Sure.

10:10:15 5 Q. And I'll represent to you and

10:10:17 6 counsel and to the Court, that this is all of

10:10:19 7 your testimony from that deposition relating to

10:10:21 8 DAP.

10:10:22 9 A. Okay. All right.

10:10:22 10 Q. And I'd ask you to turn to page

10:10:29 11 120, line three. Do you have that in front of

10:10:34 12 you?

10:10:35 13 A. I do now.

10:10:35 14 Q. And do you see where it says, how

10:10:41 15 did they get their stuff to your site? Answer

10:10:42 16 at line five, I don't know. Did I read that

10:10:45 17 correctly, sir?

10:10:47 18 A. Correct.

10:10:47 19 Q. Thank you. Would you hand that

10:10:49 20 back to me?

10:10:49 21 A. Um-hum.

10:10:50 22 Q. And as you testified yesterday, it

10:10:56 23 was your belief that DAP did not have a truck

10:10:59 24 of its own that came to the site, correct?

10:11:02 25 A. Correct, um-hum.

10:11:03 1 Q. Now, sir, you talked yesterday
10:11:12 2 about an unidentified driver, I think were your
10:11:16 3 words, telling you something about a glazing
10:11:19 4 window display at the DAP plant.

10:11:22 5 A. Yeah.

10:11:22 6 Q. Do you remember that testimony?

10:11:23 7 A. Yeah.

10:11:23 8 Q. Well, actually that was your
10:11:25 9 father who told you about that, right, not some
10:11:30 10 driver?

10:11:30 11 A. It could have been.

10:11:32 12 Q. Okay. And do you recall -- do you
10:11:35 13 recall exactly who that was?

10:11:38 14 A. That told me that?

10:11:39 15 Q. Yeah. Was it --

10:11:40 16 A. Since you mentioned it, I think it
10:11:42 17 was Dad that -- we drove by there, yeah.

10:11:43 18 Q. And, in fact, just to confirm
10:11:45 19 that, if you'd take a look at the same
10:11:47 20 testimony on a different page, and this would
10:11:49 21 be page 142.

10:11:56 22 A. 142?

10:11:57 23 Q. Yes, page 142 --

10:11:57 24 A. Okay.

10:12:00 25 Q. -- line fifteen.

10:12:00 1 A. Okay.

10:12:02 2 Q. It's your answer there that -- if
10:12:04 3 you'll follow along with me --

10:12:04 4 A. Um-hum.

10:12:05 5 Q. -- we went out to DAP because Dad
10:12:07 6 told me that DAP had -- they had displays of
10:12:09 7 windows that they would glaze to see how long
10:12:12 8 their product would last. Did I read that
10:12:14 9 correctly, sir?

10:12:14 10 A. Yes.

10:12:15 11 Q. Thank you. May I have that back?

10:12:17 12 A. Um-hum.

10:12:18 13 Q. Now, sir, you also talked
10:12:26 14 yesterday about a putty and aluminum and wood
10:12:30 15 crates and pallets, but you didn't mention any
10:12:33 16 of that in your 2012 testimony, did you?

10:12:38 17 A. No.

10:12:41 18 Q. And you also said something
10:12:43 19 yesterday about maybe there was stuff that came
10:12:48 20 from DAP one time a month. You didn't say
10:12:51 21 anything about that in your testimony in 2012,
10:12:53 22 did you?

10:12:54 23 A. No.

10:13:01 24 Q. Now, I think you mentioned
10:13:03 25 yesterday as well that there were times after

10:13:06 1 your work at the landfill that you were
10:13:09 2 involved in various construction jobs, correct?

10:13:12 3 A. Correct.

10:13:12 4 MR. ROMINE: Objection.

10:13:14 5 Unnecessarily repeats testimony from yesterday and
10:13:15 6 from 2012.

10:13:18 7 BY MR. COUGHLIN:

10:13:18 8 Q. You with me, sir?

10:13:20 9 A. Correct.

10:13:20 10 Q. And do you recall you thought that
10:13:23 11 you used DAP products in various ways when you
10:13:28 12 were doing construction work, right?

10:13:29 13 A. Yeah.

10:13:29 14 Q. Now, you have no idea whether --
10:13:32 15 what you were using in construction had the
10:13:35 16 same formulations as what may have been DAP
10:13:38 17 products from a prior time, correct?

10:13:40 18 A. Correct, um-hum.

10:13:43 19 Q. And you also testified before that
10:14:04 20 you did not recall any particular emblem that
10:14:09 21 related to DAP, correct?

10:14:10 22 A. Correct.

10:14:11 23 Q. And that at no point in time did
10:14:19 24 you ever tour a DAP plant, did you?

10:14:20 25 A. No.

10:14:20 1 Q. Sir, who was it you walked into
10:14:30 2 the office off the elevator with this morning,
10:14:34 3 kind of a tall man with -- looked like he had a
10:14:37 4 goatee maybe?

10:14:38 5 A. Off the elevator?

10:14:39 6 Q. When you came in this morning, who
10:14:42 7 were you accompanied by? He showed you to the
10:14:45 8 restroom.

10:14:47 9 A. Bill.

10:14:48 10 Q. Bill who?

10:14:50 11 A. Wilts, Walsh.

10:14:52 12 Q. Is that the investigator who works
10:14:54 13 with Mr. Silver?

10:14:54 14 A. Correct.

10:14:56 15 Q. Okay. And when did you meet with
10:14:57 16 him this morning?

10:15:00 17 A. Around 7:30.

10:15:01 18 Q. And where did you meet with him?

10:15:03 19 A. At Marriott motel.

10:15:06 20 Q. And what did you discuss with him?

10:15:11 21 A. At 7:30 or when you saw me off the
10:15:16 22 elevator?

10:15:16 23 Q. Well, let's start from 7:30 until
10:15:19 24 when you got off the elevator.

10:15:21 25 A. We discussed breakfast. Asked,

10:15:25 1 you know, did I sleep well. Just various
10:15:30 2 things about the morning.

10:15:32 3 Q. Anything else?

10:15:34 4 A. Well, I told him I wasn't feeling
10:15:36 5 well. That I slept well, but that I was
10:15:40 6 feeling the pain in my chest again and --

10:15:42 7 Q. And did he -- how did he respond
10:15:43 8 to what you told him?

10:15:45 9 A. He just kind of laughed, because I
10:15:51 10 had had a steak a couple nights before and he
10:15:54 11 said meat was kind of a -- a bad thing for the
10:15:57 12 pancreas, you know, so we were just talking
10:16:00 13 about that, so --

10:16:00 14 Q. Did you have a steak with him the
10:16:02 15 couple nights before?

10:16:03 16 A. Yes.

10:16:03 17 Q. Anybody else join you for that
10:16:09 18 steak?

10:16:09 19 A. Yes.

10:16:09 20 Q. Who?

10:16:10 21 A. Be Dave.

10:16:13 22 Q. Dave, Mr. Romine?

10:16:15 23 A. And -- and the lady behind me.

10:16:19 24 Q. One of Mr. Romine's colleagues?

10:16:21 25 A. Yeah.

10:16:21 1 Q. And who's present in the room?

10:16:24 2 A. Pardon me?

10:16:24 3 Q. The lawyer with him in the room?

10:16:26 4 MR. COUGHLIN: I'm sorry, ma'am, I
10:16:27 5 don't remember your name.

10:16:28 6 MS. MEYER: Jennifer Meyer.

10:16:28 7 BY MR. COUGHLIN:

10:16:28 8 Q. Jennifer?

10:16:29 9 A. It was Jennifer.

10:16:29 10 Q. And where did you eat?

10:16:31 11 A. Downstairs at -- the Marriott had
10:16:35 12 a -- like a dinner place.

10:16:38 13 Q. And did you discuss your
10:16:40 14 deposition at all then with them?

10:16:40 15 A. No.

10:16:44 16 Q. Did they say anything about your
10:16:46 17 deposition?

10:16:51 18 A. We -- we talked about what time to
10:16:53 19 meet in the morning. I think it was -- if it
10:17:03 20 wasn't snowing, is it going to snow in the
10:17:06 21 morning and we were just discussing how to get
10:17:07 22 here and so on and so forth, so --

10:17:09 23 Q. Did you talk about the South
10:17:11 24 Dayton Dump or any of its customers?

10:17:11 25 A. No.

10:17:14 1 Q. How about with Mr. Walsh today?

10:17:15 2 A. No.

10:17:16 3 Q. Does Mr. Walsh, was he -- has he
10:17:18 4 been driving you locally over the last couple
10:17:18 5 days?

10:17:21 6 A. Correct, um-hum.

10:17:22 7 Q. Now, you mentioned the Marriott in
10:17:34 8 Dayton. Actually a couple hours after
10:17:37 9 yesterday's deposition adjourned, you and I
10:17:40 10 bumped into each other on the concierge's level
10:17:43 11 at that hotel, right?

10:17:44 12 A. Yes.

10:17:45 13 Q. And --

10:17:45 14 A. Now, what -- concierge --
10:17:49 15 concierge what?

10:17:49 16 Q. Concierge, the 6th floor --

10:17:50 17 A. Yes.

10:17:51 18 Q. -- where you need a special key to
10:17:52 19 get on the elevator to get you to that floor.

10:17:56 20 A. Um-hum.

10:17:56 21 Q. That's where you were staying?

10:17:56 22 A. Yeah.

10:17:58 23 Q. And I got a free frequent traveler
10:18:01 24 upgrade, did you?

10:18:02 25 A. I don't know what that means.

10:18:03 1 Q. Did they provide you a room on
10:18:06 2 that floor at no extra charge?

10:18:07 3 A. I wouldn't know that.

10:18:09 4 Q. I paid one seventy-nine for my
10:18:12 5 room. What did your room cost?

10:18:14 6 A. No clue.

10:18:16 7 Q. Well, who's paying for your room?

10:18:18 8 A. Bill.

10:18:21 9 Q. And how did he pay for it?

10:18:23 10 A. I have no clue.

10:18:25 11 Q. Did he pay for dinner and the room
10:18:27 12 the night before?

10:18:29 13 A. Correct.

10:18:30 14 Q. Why were you staying at the
10:18:32 15 Marriott?

10:18:33 16 A. I don't know.

10:18:37 17 Q. Has he been arranging your
10:18:39 18 transportation while you were here at his cost?
10:18:42 19 In other words, you have not been paying him to
10:18:44 20 transport you in town?

10:18:45 21 A. No. No.

10:18:45 22 Q. I state that correctly?

10:18:46 23 A. Correct.

10:18:47 24 Q. Has he -- has Mr. Walsh, or
10:18:54 25 anybody acting with him, paid any other

10:18:56 1 expenses on your behalf during this trip?

10:19:02 2 A. No.

10:19:03 3 Q. How about in 2012?

10:19:06 4 A. No.

10:19:07 5 Q. Altogether, what would you
10:19:10 6 estimate the expenses that have been paid for
10:19:14 7 by Mr. Walsh or his associates for you?

10:19:19 8 A. I don't know.

10:19:20 9 Q. Are we talking in the thousands of
10:19:23 10 dollars?

10:19:24 11 A. I don't know.

10:19:28 12 Q. And as it turns out, since we're
10:19:39 13 talking about the Marriott, we again bumped
10:19:42 14 into each other a couple hours later in the
10:19:45 15 concierge's lounge, right?

10:19:45 16 A. Um-hum.

10:19:46 17 Q. You have to answer audibly, sir.

10:19:48 18 A. Oh, yes.

10:19:49 19 Q. And at that point in time, you
10:19:51 20 were on the computer terminal doing Internet
10:19:55 21 searches, right?

10:19:55 22 A. Yeah.

10:19:56 23 Q. And you were entering information
10:19:58 24 into the keyboard and reading what was up on
10:20:01 25 the screen?

10:20:01 1 A. Correct.

10:20:02 2 Q. And then at one point at least you
10:20:04 3 printed out what looked like a pretty long
10:20:06 4 document, a series of pages that you collected
10:20:08 5 and then went and read, right?

10:20:10 6 A. Yes.

10:20:11 7 Q. And I was at the terminal next to
10:20:15 8 you.

10:20:15 9 A. Correct.

10:20:16 10 Q. And if I recall correctly, your
10:20:20 11 search involved something, since you were
10:20:22 12 sitting next to me, relating to Guinness?

10:20:25 13 A. To what?

10:20:26 14 Q. Guinness, G U I N N E S S.

10:20:31 15 A. I don't --

10:20:31 16 Q. You don't recall doing any
10:20:34 17 research -- search concerning Guinness?

10:20:37 18 A. Just Google, you know.

10:20:39 19 Q. A Google search concerning
10:20:39 20 Guinness?

10:20:40 21 A. I don't know.

10:20:40 22 Q. You know how to use Google?

10:20:43 23 A. A little bit.

10:20:44 24 Q. What were you searching on the
10:20:47 25 computer last night?

10:20:47 1 A. I've only been using a computer
10:20:50 2 now for about --

10:20:51 3 Q. I didn't ask you how long you were
10:20:52 4 using it, so I'll move to strike. I asked you
10:20:54 5 what were you searching last night?

10:20:57 6 MR. ROMINE: Objection. Relevance.

10:20:58 7 THE WITNESS: Reading material.

10:20:58 8 BY MR. COUGHLIN:

10:20:58 9 Q. Reading material concerning what?

10:21:00 10 A. Storage.

10:21:01 11 Q. Did anything relate to the South
10:21:04 12 Dayton Dump or its customers?

10:21:06 13 A. Oh, no.

10:21:06 14 Q. Or this lawsuit?

10:21:07 15 A. No.

10:21:07 16 Q. Where did you have dinner last
10:21:21 17 night?

10:21:23 18 A. In Dayton.

10:21:24 19 Q. With whom?

10:21:25 20 A. With the parties just spoken of,
10:21:29 21 which would be Mr. Walsh -- Welch -- Walsh and
10:21:34 22 the two people behind me.

10:21:35 23 Q. David and his colleague?

10:21:37 24 MR. COUGHLIN: And, ma'am, I'm sorry,
10:21:38 25 I'm just having trouble with your name.

10:21:40 1 THE WITNESS: Me too.

10:21:41 2 BY MR. COUGHLIN:

10:21:41 3 Q. And where did you eat?

10:21:43 4 A. Pardon me?

10:21:43 5 Q. Where did you eat?

10:21:44 6 A. Old Hickory.

10:21:45 7 Q. What's that?

10:21:46 8 A. It's a barbecue/steakhouse on

10:21:50 9 Brown -- Brown Street. Warren or Brown.

10:21:53 10 Q. Who picked up the tab?

10:21:54 11 A. I don't know.

10:21:55 12 Q. How much was it?

10:21:57 13 A. I didn't even look at the menu. I
10:21:57 14 don't know.

10:21:59 15 Q. What was the tab from the night
10:22:00 16 before?

10:22:00 17 A. I don't know.

10:22:01 18 Q. What did you discuss at dinner
10:22:04 19 after your deposition?

10:22:05 20 A. Pardon me?

10:22:06 21 Q. What did you talk about at your
10:22:07 22 dinner after your deposition yesterday?

10:22:09 23 A. Mostly about my dog and my
10:22:19 24 girlfriend -- or my ex-girlfriend that I live
10:22:23 25 with. Just various -- we talked about the

10:22:26 1 holidays coming up and stuff like that, so --

10:22:27 2 Q. Did you talk about your deposition
10:22:29 3 testimony at all?

10:22:30 4 A. No.

10:22:31 5 Q. Did you talk about the landfill?

10:22:32 6 A. No.

10:22:33 7 Q. Did you talk about any of its
10:22:35 8 customers?

10:22:35 9 A. No.

10:22:35 10 Q. Did you talk about any of the
10:22:39 11 lawyers?

10:22:40 12 A. Pardon me?

10:22:41 13 Q. Did you talk about any of the
10:22:42 14 lawyers?

10:22:44 15 A. No.

10:22:49 16 Q. Now, along the same lines, I
10:22:53 17 understood you to be saying during one of the
10:22:55 18 breaks in the deposition yesterday when you
10:22:57 19 were talking to Mr. Romine, that there was
10:22:59 20 going to be some kind of a charge associating
10:23:03 21 with changing airline reservations. Did that
10:23:06 22 relate to you?

10:23:08 23 A. No.

10:23:09 24 Q. Has anyone bought you -- Mr. Walsh
10:23:12 25 or others with respect to the landfill, bought

10:23:14 1 you any airfare?

10:23:16 2 A. No.

10:23:16 3 Q. Now, you gave us your cell phone
10:23:24 4 number yesterday during your testimony.

10:23:25 5 A. Correct.

10:23:25 6 Q. It's true, is it not though, sir,
10:23:30 7 that you instructed the plaintiffs' lawyers
10:23:33 8 prior to yesterday's testimony not to give your
10:23:37 9 cell phone number to any of the lawyers
10:23:39 10 representing the defendants?

10:23:40 11 A. Could you rephrase the question,
10:23:41 12 please?

10:23:41 13 Q. Yes. Up until yesterday, hadn't
10:23:43 14 you told Mr. Romine and his colleagues that you
10:23:46 15 didn't want them to give your cell phone number
10:23:48 16 to any of the defendants or their lawyers,
10:23:48 17 correct?

10:23:51 18 A. I don't remember.

10:23:52 19 Q. Did you give any instructions
10:23:54 20 about you didn't want anybody contacting you
10:23:58 21 concerning the case --

10:23:58 22 A. No.

10:23:59 23 Q. -- other than them?

10:24:00 24 A. No.

10:24:01 25 Q. You did not do that?

10:24:02 1 A. No.

10:24:03 2 Q. Now, in your testimony yesterday,
10:24:13 3 you mentioned at one point that you thought
10:24:16 4 you'd be the owner of the landfill, remember
10:24:18 5 that?

10:24:19 6 A. Oh, yeah.

10:24:19 7 Q. Who told you that?

10:24:22 8 A. My father, Uncle Alcine and Horace
10:24:28 9 Boesch.

10:24:28 10 Q. And that didn't happen, right?

10:24:32 11 A. Nope.

10:24:32 12 Q. And I sensed a little
10:24:35 13 disappointment or maybe even bitterness on your
10:24:37 14 part with respect to that, is that true?

10:24:39 15 A. Could be.

10:24:40 16 Q. And why is that?

10:24:41 17 A. I gave up a lot through my life
10:24:46 18 for that particular thing, so --

10:24:50 19 Q. Well, did they prevent you from
10:24:53 20 becoming the owner?

10:24:53 21 A. No.

10:24:53 22 Q. Did they refuse to grant you any
10:24:57 23 kind of ownership interest?

10:24:59 24 A. Did they grant me?

10:25:00 25 Q. Did they refuse to give you any

10:25:03 1 kind of ownership in the landfill or the
10:25:03 2 business?

10:25:05 3 A. Oh, no. No. No.

10:25:05 4 Q. Why didn't you become the owner?

10:25:11 5 A. I wanted to be a carpenter.

10:25:17 6 Q. And you went on and pursued that
10:25:19 7 career?

10:25:19 8 A. Correct.

10:25:20 9 Q. Did you become, in fact, a union
10:25:23 10 carpenter or joiner?

10:25:24 11 A. Not a union, no.

10:25:26 12 Q. Did you go through any kind of
10:25:28 13 apprenticeship or training in that regard?

10:25:31 14 A. No.

10:25:32 15 Q. Kind of self taught?

10:25:33 16 A. Correct.

10:25:34 17 Q. At any point, including up to now,
10:25:46 18 did you have any ownership interest in the
10:25:49 19 landfill?

10:25:55 20 A. Just word of mouth possibly.

10:25:58 21 Q. And what do you mean by that, sir?

10:26:01 22 A. After my father passed away, my
10:26:03 23 stepmom talked to me about the situation.

10:26:09 24 Q. Did you have any ownership
10:26:12 25 interest in the business as opposed to the

10:26:14 1 landfill?

10:26:14 2 A. No.

10:26:15 3 Q. You were an heir to your father's
10:26:19 4 estate, correct?

10:26:19 5 A. Correct.

10:26:20 6 Q. And the landfill passed to his
10:26:22 7 estate?

10:26:24 8 A. Pardon me?

10:26:25 9 Q. And the landfill passed to his
10:26:27 10 estate upon his death, correct?

10:26:30 11 A. To be -- be more specific, it was
10:26:35 12 his property, not the dump. The dump had
10:26:39 13 no -- well, how -- connection to my father.

10:26:46 14 Q. The real property upon which the
10:26:48 15 dump sat passed into your father's estate,
10:26:51 16 right?

10:26:51 17 A. Correct, and Horace Boesch.

10:26:54 18 Q. Okay. Thank you.

10:27:04 19 A. May I say something else?

10:27:05 20 Q. No.

10:27:07 21 A. Okay.

10:27:08 22 Q. Sir, you understand -- I'm going
10:27:26 23 to withdraw that. Has anybody made any
10:27:29 24 promises to you in exchange for your testimony?

10:27:33 25 A. No.

10:27:33 1 Q. Either now or in 2012?

10:27:34 2 A. No.

10:27:35 3 Q. Anybody make any threats or
10:27:40 4 inducements to you concerning your testimony
10:27:42 5 now or before?

10:27:43 6 A. No.

10:27:43 7 Q. Did you feel under any duress by
10:27:47 8 anybody concerning what you should say in your
10:27:49 9 testimony?

10:27:49 10 A. No.

10:27:49 11 Q. Did you make any deals or
10:27:53 12 agreements with anybody about what your
10:27:55 13 testimony would or should be?

10:27:57 14 A. No.

10:27:57 15 Q. Did you ever receive any
10:28:01 16 instructions from anybody as to how you should
10:28:05 17 testify?

10:28:05 18 A. No.

10:28:06 19 Q. Did anybody ever tell you that you
10:28:08 20 should be sure to say something or not to say
10:28:11 21 something in particular during your
10:28:12 22 depositions?

10:28:13 23 A. No.

10:28:14 24 Q. Sir, now you understand that your
10:28:40 25 deposition is being taken now as opposed to

10:28:43 1 some other point in this case because the
10:28:45 2 plaintiffs' lawyers have told the Court that
10:28:48 3 they are concerned that your health is so
10:28:52 4 fragile that your death may be imminent. Were
10:28:55 5 you aware of that?

10:28:55 6 A. I think I said that, yesterday.

10:28:57 7 Q. You did?

10:28:57 8 A. Yes.

10:28:58 9 Q. And I think you indicated that
10:29:05 10 your pancreatitis is responding to the
10:29:05 11 medications you're taking?

10:29:07 12 A. I believe so, other than today.

10:29:10 13 Q. I'm sorry, did you say other than
10:29:11 14 today?

10:29:11 15 A. Other than today.

10:29:12 16 Q. And you turned 61 last month, was
10:29:14 17 it?

10:29:15 18 A. 62.

10:29:16 19 Q. 62?

10:29:17 20 A. Yeah.

10:29:17 21 Q. Sir, has any licensed health
10:29:21 22 professional told you at any time in the last
10:29:25 23 year that you have a terminal illness?

10:29:27 24 A. No.

10:29:28 25 Q. Has any licensed health

10:29:30 1 professional told you that you are in imminent
10:29:33 2 danger of death?

10:29:35 3 A. No.

10:29:35 4 Q. Now, you mentioned yesterday that
10:29:36 5 you felt like, you know, you have a sense of
10:29:40 6 something that you may be dying?

10:29:41 7 A. Right, um-hum.

10:29:42 8 Q. Has any licensed health
10:29:44 9 professional confirmed that sense to you?

10:29:46 10 A. No.

10:29:51 11 Q. Did you receive any instructions
10:29:53 12 from any health professional not to travel?

10:29:57 13 A. No.

10:29:58 14 Q. Did you receive any instructions
10:29:59 15 from any health professional not to testify
10:30:02 16 today?

10:30:02 17 A. No.

10:30:03 18 Q. Do you plan on traveling back to
10:30:06 19 North Carolina in the new year?

10:30:08 20 A. I'm not sure.

10:30:10 21 Q. What are your travel plans after
10:30:12 22 the holidays?

10:30:13 23 A. I'm not sure.

10:30:15 24 Q. Well, what are you contemplating?

10:30:17 25 MR. ROMINE: Asked and answered.

10:30:20 1 THE WITNESS: At this time, I'm not
10:30:21 2 sure.

10:30:21 3 BY MR. COUGHLIN:

10:30:22 4 Q. Where do you plan on being in the
10:30:23 5 month of January?

10:30:24 6 MR. ROMINE: Asked and answered.

10:30:24 7 THE WITNESS: I'm not sure.

10:30:25 8 BY MR. COUGHLIN:

10:30:26 9 Q. Where are possible places where
10:30:28 10 you would be in January as a matter of course?

10:30:31 11 MR. ROMINE: Asked and answered.

10:30:32 12 THE WITNESS: Ohio, Michigan or North
10:30:35 13 Carolina or Florida.

10:30:35 14 BY MR. COUGHLIN:

10:30:36 15 Q. Okay. And do you have residences
10:30:38 16 in each of those states?

10:30:41 17 A. No.

10:30:41 18 Q. Where would you stay in Florida?

10:30:44 19 A. People I've done work for.

10:30:48 20 Q. And where is that located in
10:30:51 21 Florida?

10:30:51 22 A. Marco Beach -- Marco Island. Snow
10:30:57 23 Hill, North Carolina. Ypsilanti, Michigan, and
10:31:02 24 Dayton, Ohio.

10:31:03 25 Q. The same people have properties in

10:31:06 1 each -- and I think I'm misunderstanding. Who
10:31:09 2 is it you would stay with at Marco?

10:31:10 3 MR. ROMINE: Objection. Beyond the
10:31:12 4 scope of the direct. Beyond the scope of Judge
10:31:14 5 Rice's guidelines for this deposition.

10:31:15 6 THE WITNESS: What, do I answer?
10:31:17 7 BY MR. COUGHLIN:

10:31:17 8 Q. Yeah, you can -- you can point the
10:31:18 9 laugh box at that. Where would you -- where
10:31:22 10 would you be if you went down to Marco?

10:31:24 11 A. A doctor friend of mine is a
10:31:30 12 doctor here in Dayton, his property down there.

10:31:32 13 Q. What's his name?

10:31:33 14 MR. ROMINE: Objection. Beyond the
10:31:35 15 scope of the direct. Beyond the scope of Judge
10:31:38 16 Rice's guidelines for this deposition.

10:31:38 17 BY MR. COUGHLIN:

10:31:38 18 Q. What's his name, sir?

10:31:39 19 A. Al Samkari.

10:31:41 20 Q. Could you spell that, please, or
10:31:42 21 something close to it?

10:31:43 22 MR. ROMINE: Same objection.

10:31:43 23 BY MR. COUGHLIN:

10:31:43 24 Q. Samkari?

10:31:46 25 A. A L, S A M C A R I (sic), I think.

10:31:48 1 Q. And he's a physician practicing in
10:31:50 2 Dayton?

10:31:50 3 MR. ROMINE: Objection. Relevance.
10:31:52 4 Beyond the scope of the direct. Beyond the scope
10:31:54 5 of Judge Rice's guidelines for this deposition.
10:31:56 6 BY MR. COUGHLIN:

10:31:58 7 Q. He's a physician practicing in
10:31:59 8 Dayton?

10:31:59 9 A. Yes.

10:31:59 10 MR. ROMINE: Same objection.

10:32:00 11 BY MR. COUGHLIN:

10:32:00 12 Q. And when you mentioned -- what was
10:32:03 13 the name of the city in North Carolina, I
10:32:04 14 forgot?

10:32:04 15 MR. ROMINE: Same objection.

10:32:05 16 THE WITNESS: Snow Hill.

10:32:05 17 BY MR. COUGHLIN:

10:32:06 18 Q. That's where you were staying
10:32:07 19 before where you --

10:32:07 20 A. Correct.

10:32:08 21 MR. ROMINE: Objection. Beyond the
22 scope --

23 BY MR. COUGHLIN:

24 Q. And then what is the property in
25 Michigan?

1 (Thereupon, the court reporter
2 interrupted the proceedings.)

10:32:13 3 MR. ROMINE: Beyond the scope of the
10:32:14 4 direct. Beyond the scope of Judge Rice's
10:32:15 5 guidelines for this deposition.

10:32:15 6 BY MR. COUGHLIN:

10:32:16 7 Q. And who is it you'd be staying
10:32:17 8 with in Michigan?

10:32:18 9 MR. ROMINE: Objection. Beyond the
10:32:19 10 scope of the direct. Beyond the scope of Judge
10:32:22 11 Rice's guidelines for this deposition. Relevance.

10:32:23 12 THE WITNESS: A woman that I had done
10:32:25 13 work.

10:32:25 14 BY MR. COUGHLIN:

10:32:25 15 Q. And what's her name?

10:32:25 16 MR. ROMINE: Objection. Beyond the
10:32:27 17 scope of the direct. Beyond the scope of Judge
10:32:29 18 Rice's guidelines for this deposition. Relevance.

10:32:30 19 BY MR. COUGHLIN:

10:32:30 20 Q. And what's her name, sir?

10:32:33 21 MR. ROMINE: Objection. Beyond the
10:32:34 22 scope of the direct. Beyond the scope of Judge
10:32:37 23 Rice's guidelines for this deposition.

10:32:37 24 BY MR. COUGHLIN:

10:32:37 25 Q. You -- you may answer.

10:32:38 1 MR. ROMINE: Relevance.

10:32:38 2 BY MR. COUGHLIN:

10:32:39 3 Q. No, we understand that Mr. Romine
10:32:40 4 is simply trying to overtalk both you and me,
10:32:43 5 but at some point or another, you'll be free to
10:32:45 6 answer that question, so when you're ready,
10:32:47 7 please do.

10:32:47 8 A. Okay.

10:32:49 9 Q. And is -- and her name, sir?

10:32:51 10 A. Let's not be inappropriate to her,
10:32:51 11 because --

10:32:52 12 Q. Yes, the -- Barb is working hard.

10:32:55 13 A. Okay. Carol Smith is her name.

10:32:56 14 Q. And where is she located?

10:32:58 15 MR. ROMINE: Same objection.

10:32:59 16 THE WITNESS: Ypsilanti, Michigan.

10:33:15 17 MR. EDDY: Mr. Grillot, if you could
10:33:16 18 kind of keep your voice up. It's a little hard
10:33:18 19 for us down here to hear you sometimes, especially
10:33:21 20 with the back and forth here.

10:33:21 21 THE WITNESS: Sure. Okay.

10:33:22 22 MR. EDDY: So when you answer, if you
10:33:24 23 could try to keep your voice up, it would be
10:33:27 24 greatly appreciated.

10:33:27 25 THE WITNESS: I'll do that.

10:33:28 1 MR. EDDY: Thank you.

10:33:28 2 THE WITNESS: Um-hum.

10:33:29 3 BY MR. COUGHLIN:

10:33:29 4 Q. Sir, do you have any military
10:33:31 5 service?

10:33:31 6 MR. ROMINE: Same objection.

10:33:31 7 THE WITNESS: No, I don't.

10:33:32 8 BY MR. COUGHLIN:

10:33:33 9 Q. Did you -- since you turned
10:33:35 10 roughly 18 in 1970, did you register with the
10:33:38 11 Selective Service of the United States?

10:33:40 12 MR. ROMINE: Same objection.

10:33:40 13 THE WITNESS: No.

10:33:41 14 BY MR. COUGHLIN:

10:33:41 15 Q. You did not?

10:33:41 16 A. No.

10:33:42 17 Q. Why not?

10:33:43 18 MR. ROMINE: Same objection.

10:33:44 19 THE WITNESS: I don't know.

10:33:45 20 BY MR. COUGHLIN:

10:33:51 21 Q. Now, you mentioned in your prior
10:33:53 22 deposition that you had a history of alcohol
10:33:55 23 abuse and psychiatric treatment. Do you
10:33:58 24 remember that testimony?

10:33:59 25 A. Correct.

10:34:00 1 Q. Sir, you indicated that you have
10:34:05 2 not been drinking since 2008, correct?

10:34:08 3 A. Correct.

10:34:08 4 Q. And is that still the case?

10:34:11 5 A. Correct.

10:34:11 6 Q. In your prior testimony, sir, you
10:34:16 7 indicated that you had two felony convictions,
10:34:18 8 one relating to a drug offense and one relating
10:34:20 9 to domestic violence.

10:34:22 10 A. Correct.

10:34:22 11 Q. Did the drug conviction involve
10:34:25 12 any intent to distribute?

10:34:27 13 A. No.

10:34:28 14 Q. And, I'm sorry, I don't remember
10:34:44 15 if I asked this. Have you had any convictions,
10:34:46 16 criminal convictions, of any sort since your
10:34:49 17 last testimony --

10:34:50 18 A. No.

10:34:50 19 Q. -- in 2012? Are there any
10:34:52 20 criminal charges pending against you anywhere,
10:34:55 21 to your knowledge?

10:34:55 22 A. No.

10:34:56 23 Q. Now, sir, you're aware that in
10:35:03 24 this case, NCR and a company that is a
10:35:09 25 successor to Dayton-Walther and a company --

10:35:14 1 and Hobart are the plaintiffs that brought the

10:35:16 2 lawsuit in which you're testifying now --

10:35:18 3 MR. ROMINE: Objection.

10:35:18 4 BY MR. COUGHLIN:

10:35:19 5 Q. -- do you understand that?

10:35:19 6 A. Yes, I do.

10:35:19 7 MR. ROMINE: Objection. It goes

10:35:19 8 beyond --

10:35:19 9 THE WITNESS: Yes, I do.

10:35:21 10 MR. ROMINE: -- the scope of what the

10:35:22 11 judge said. Objection.

12 BY MR. COUGHLIN:

13 Q. Are you trying to -- are you

14 trying to talk over Mr. Romine?

15 A. I was trying to help them here.

16 (Thereupon, the court reporter
17 interrupted the proceedings.)

10:35:32 18 MR. ROMINE: It goes beyond the scope

10:35:33 19 of the direct. It goes beyond the scope of what

10:35:36 20 Judge Rice ordered for this deposition.

10:35:38 21 MR. EDDY: May I make a suggestion?

10:35:38 22 MR. COUGHLIN: Sure.

10:35:39 23 MR. EDDY: And probably should have

10:35:41 24 made it yesterday. Sometimes the witness has a

10:35:44 25 tendency to speak immediately upon a question mark

10:35:50 1 at the end of a statement, and it might be helpful
10:35:54 2 if the witness pause for just a moment before
10:35:57 3 attempting to answer so that if Mr. Romine wants
10:36:00 4 to make an objection, he can start it, get it over
10:36:04 5 with before you start your answer, but when he
10:36:06 6 stops his objection, you are then allowed to
10:36:08 7 answer.

10:36:09 8 THE WITNESS: I'll try that.

10:36:10 9 MR. EDDY: All right. That might
10:36:11 10 help.

10:36:12 11 MR. SHARETT: I'm sorry, this is
10:36:13 12 Anthony Sharett on behalf of DP&L. Whoever was
10:36:16 13 just speaking, the people on the telephone could
10:36:18 14 not hear a word of that.

10:36:18 15 MR. COUGHLIN: Well, we have --
10:36:21 16 Anthony, what we have is a working understanding
10:36:22 17 among the witness and the lawyers that Mr. Grillot
10:36:26 18 is going to try to pause at the end of my question
10:36:29 19 and other lawyers' questions, and then to allow
10:36:33 20 Mr. Romine to make his objection or not, and then
10:36:37 21 at the conclusion of the objection, if there is
10:36:41 22 one, proceed with his answer.

10:36:41 23 BY MR. COUGHLIN:

10:36:42 24 Q. Does that work for you, Mr.
10:36:44 25 Grillot?

10:36:44 1 A. Now I'm confused.

10:36:46 2 Q. Well, I was afraid of that. How
10:36:48 3 about if you let the lawyer, like me, answer
10:36:52 4 the question -- ask the question.

10:36:53 5 A. Okay.

10:36:53 6 Q. Then somebody may or may not
10:36:55 7 object, you never know.

10:36:56 8 A. Okay.

10:36:57 9 Q. And then when that objection is
10:37:00 10 done, proceed with your answer. Is that okay
10:37:04 11 with you?

10:37:04 12 A. Yes.

10:37:05 13 Q. Thank you. Now, before we took
10:37:09 14 that helpful break, you indicated that you were
10:37:13 15 aware that NCR and a successor to
10:37:17 16 Dayton-Walther and Hobart are plaintiffs in the
10:37:20 17 action in which you are testifying, correct?

10:37:23 18 MR. ROMINE: Same objection.

10:37:24 19 THE WITNESS: Yes.

10:37:25 20 BY MR. COUGHLIN:

10:37:25 21 Q. And you understand they're the
10:37:31 22 ones who brought the lawsuit in which you are
10:37:33 23 testifying?

10:37:33 24 MR. ROMINE: Asked and answered.
10:37:34 25 Same objection.

10:37:36 1 THE WITNESS: Yes.

10:37:36 2 BY MR. COUGHLIN:

10:37:37 3 Q. And -- Bob, that was very helpful.

10:37:42 4 And if I heard correctly yesterday, it was your

10:37:49 5 testimony that you were not aware that

10:37:52 6 Dayton-Walther was a major customer of the

10:37:55 7 South Dayton Dump?

10:37:58 8 A. Could you repeat, please?

10:38:01 9 Q. Did you say yesterday that South

10:38:03 10 Dayton -- that withdrawn. Did you say

10:38:06 11 yesterday that Dayton-Walther was not, to your

10:38:10 12 memory, a major customer of the South Dayton

10:38:16 13 Dump?

10:38:16 14 A. I don't think so.

10:38:17 15 Q. What do you recall is -- involving

10:38:21 16 Walther -- Dayton-Walther's involvement with

10:38:23 17 the South Dayton Dump?

10:38:25 18 A. I'm still confused about that.

10:38:27 19 Q. In what way, sir?

10:38:29 20 A. Because the -- the last of the

10:38:33 21 three, I don't recognize the name. I know it

10:38:36 22 by -- or I don't -- I'm not sure if it's the

10:38:40 23 name connected to the Walther Corporation or

10:38:45 24 not at this point.

10:38:47 25 Q. You're unclear about who or what

10:38:50 1 Walther is?

10:38:50 2 A. No, the -- the name that's
10:38:53 3 indicated on the third party, does not have the
10:39:02 4 name that I would relate to.

10:39:04 5 Q. Is that Kelsey-Hayes or TRW?

10:39:08 6 A. Kelsey-Hayes, I think.

10:39:09 7 Q. You don't recognize?

10:39:10 8 A. Kelsey-Hayes, I don't think.

10:39:12 9 Q. Okay. What is your understanding
10:39:14 10 of who or what Dayton-Walther was in relation
10:39:17 11 to the South Dayton Dump?

10:39:21 12 A. Please rephrase the question
10:39:22 13 again.

10:39:22 14 Q. What is your understanding of what
10:39:25 15 Dayton-Walther -- Walther's involvement was
10:39:28 16 with the South Dayton Dump?

10:39:30 17 MR. ROMINE: Same objection as before
10:39:31 18 and also vague.

10:39:32 19 THE WITNESS: Friends of the family,
10:39:35 20 and they would dump -- they brought waste, stuff
10:39:42 21 to the dump.

10:39:43 22 BY MR. COUGHLIN:

10:39:43 23 Q. What did they bring to the dump?

10:39:44 24 MR. ROMINE: Same objection as
10:39:45 25 before.

10:39:46 1 THE WITNESS: I don't recall.

10:39:49 2 BY MR. COUGHLIN:

10:39:49 3 Q. Were they a large customer of the
10:39:49 4 dump?

10:39:51 5 A. Pardon me?

10:39:51 6 Q. Were they a large customer of the
10:39:51 7 dump?

10:39:54 8 A. Oh, no. No.

10:39:55 9 Q. Were they a regular customer of
10:39:55 10 the dump?

10:39:57 11 A. No.

10:39:57 12 Q. Is Hobart a name that you recall
10:40:04 13 associated with the dump?

10:40:05 14 MR. ROMINE: Same objection as
10:40:07 15 before.

10:40:07 16 THE WITNESS: Yes.

10:40:08 17 BY MR. COUGHLIN:

10:40:08 18 Q. Hobart was a customer of the dump?

10:40:11 19 A. Yes.

10:40:11 20 MR. ROMINE: Same objection.

10:40:11 21 BY MR. COUGHLIN:

10:40:12 22 Q. Did you view them to be a large
10:40:13 23 customer of the dump?

10:40:14 24 MR. ROMINE: Same objection.

10:40:15 25 THE WITNESS: No.

10:40:16 1 BY MR. COUGHLIN:

10:40:16 2 Q. What did they bring to the dump?

10:40:22 3 A. I can't recall.

10:40:27 4 Q. And, of course, you remember NCR
10:40:29 5 was a large customer of the dump, correct?

10:40:31 6 A. Yes.

10:40:32 7 Q. Now, how was Dayton -- withdraw
10:40:36 8 that. How is somebody from Dayton-Walther a
10:40:38 9 friend of your family? What was the
10:40:41 10 relationship?

10:40:43 11 A. His son was a race car driver for
10:40:46 12 the Indy 500, and my father had a fireworks
10:40:52 13 business and Dad would provide fireworks for
10:40:56 14 displays after a big show at their house or
10:41:01 15 stuff like that.

10:41:01 16 Q. What was the son's name?

10:41:04 17 A. Salt.

10:41:04 18 Q. Pardon me?

10:41:05 19 A. Salt Walther.

10:41:06 20 Q. Saul?

10:41:07 21 A. Salt, like salt.

10:41:07 22 Q. Salt, as in salt and pepper,
10:41:07 23 Walther?

10:41:10 24 A. Um-hum.

10:41:11 25 Q. Is he still alive, sir?

10:41:12 1 A. I don't know.

10:41:13 2 Q. When's the last time you saw him?

10:41:16 3 A. I have never really seen him
10:41:19 4 personally.

10:41:36 5 MR. COUGHLIN: Glenn or Jay, do you
10:41:39 6 have anything?

10:41:39 7 MR. DICKERSON: No follow-up. Thank
10:41:39 8 you.

10:41:41 9 MR. COUGHLIN: Glenn, anything you'd
10:41:42 10 like to follow up with on that, if Glenn Harris is
10:41:47 11 on the line still?

10:41:50 12 MR. HARRIS: Oh, yes, he is, and I
10:41:51 13 don't have any follow-up. Thanks.

10:41:54 14 MR. COUGHLIN: Pass the witness.

10:41:56 15 MR. ROMINE: Can I do my redirect on
10:41:58 16 this or do you want to wait until the end?

10:42:01 17 MR. COUGHLIN: We -- we discussed
10:42:02 18 that during a break and thought it -- although
10:42:03 19 it's going to mess up some schedules for people on
10:42:06 20 travel, it probably makes more sense to just do
10:42:08 21 all that at the end. Is that okay with you?

10:42:10 22 MR. ROMINE: That's fine with me.

10:42:13 23 MR. COUGHLIN: Thank you, sir.

10:42:14 24 THE WITNESS: You're welcome.

10:42:14 25 (Interruption in proceedings.)

10:42:14 1 (Thereupon, an off-the-record
10:42:14 2 discussion was had.)

10:42:40 3 MR. COUGHLIN: Okay. There are no
10:42:41 4 questions for me or the witness? Then we're
10:42:44 5 passing the witness to the next questioner. Thank
10:42:47 6 you.

10:42:47 7 CROSS-EXAMINATION

10:43:08 8 BY MR. COLLIER:

10:43:08 9 Q. Mr. Grillot, my name is Orla
10:43:08 10 Collier. I'm with the law firm of Benesch,
10:43:13 11 Friedlander, Coplan and Aronoff, and I
10:43:14 12 represent L.M. Berry Company, and my
10:43:16 13 questioning will be limited to that company.

10:43:17 14 A. Okay. Thank you.

10:43:20 15 Q. And in the course of my
10:43:22 16 questioning, I would like to elicit your direct
10:43:25 17 knowledge. I don't want an -- an understanding
10:43:28 18 maybe what -- from what somebody told you. I
10:43:31 19 want your own testimony from your own personal
10:43:34 20 knowledge, things that you observed.

10:43:35 21 A. Okay.

10:43:35 22 Q. And if you need to go beyond that,
10:43:37 23 then we'll deal with that as the questioning
10:43:39 24 progresses, but the thrust of my questioning is
10:43:41 25 solely on your personal knowledge and

10:43:43 1 involvement with this landfill --

10:43:44 2 A. Correct.

10:43:44 3 Q. -- okay? All right.

10:43:47 4 MR. COLLIER: And for purposes of the
10:43:49 5 record, I'm taking this -- I'm doing this
10:43:51 6 examination as if on cross-examination.

10:43:51 7 BY MR. COLLIER:

10:44:01 8 Q. I want to start with your work
10:44:06 9 experience, and as I understand it, while you
10:44:12 10 did some part-time work at the landfill, did
10:44:15 11 you ever become a full-time employee?

10:44:19 12 A. I -- I was led to believe I was a
10:44:21 13 full-time employee.

10:44:23 14 Q. Over what period of time?

10:44:28 15 A. From '60 to '69.

10:44:34 16 Q. 1960 to 1969?

10:44:36 17 A. Right.

10:44:36 18 Q. Now, 1960, as you've testified
10:44:39 19 before in this deposition, you were in school,
10:44:43 20 you were eight years old?

10:44:44 21 A. Right.

10:44:45 22 Q. Well, how old were you then, eight
10:44:50 23 years old?

10:44:51 24 A. Eight, something like that.

10:44:52 25 Q. Okay. And did you consider

10:44:57 1 yourself a full-time employee when you were
10:44:58 2 eight years old?

10:45:00 3 A. Made a dollar a day, yep.

10:45:01 4 Q. Okay. You were also going to
10:45:04 5 school, I hope, full-time?

10:45:06 6 A. When I couldn't get out of it,
10:45:10 7 yeah.

10:45:10 8 Q. And I believe in terms of
10:45:12 9 chronology, you had quit school when you were
10:45:15 10 16?

10:45:15 11 A. Correct.

10:45:16 12 Q. And you were in the 9th grade at
10:45:16 13 that time?

10:45:16 14 MR. ROMINE: I'm going to object to
10:45:18 15 this line of questioning on the ground that it
10:45:20 16 rehashes testimony from 2012, which is beyond the
10:45:23 17 scope of Judge Rice's order.

10:45:25 18 THE WITNESS: Correct.

10:45:26 19 BY MR. COLLIER:

10:45:26 20 Q. All right. And were you a
10:45:28 21 full-time student between the ages of eight and
10:45:28 22 16?

10:45:31 23 MR. ROMINE: Same objection.

10:45:36 24 THE WITNESS: Tried to be.

10:45:36 25 BY MR. COLLIER:

10:45:36 1 Q. Okay. Do you know whether the
10:45:41 2 South Dayton Landfill was a corporation or
10:45:44 3 partnership or any kind of legal entity?

10:45:48 4 A. I don't know.

10:45:49 5 Q. You were not an officer of that
10:45:51 6 corporation at any time, were you?

10:45:53 7 A. No.

10:45:54 8 Q. You were not a director of South
10:45:57 9 Dayton Landfill?

10:45:57 10 A. No.

10:45:58 11 Q. You were not in management?

10:46:01 12 A. No.

10:46:01 13 Q. What were your job duties between
10:46:05 14 the time you were eight and the time you were
10:46:07 15 16?

10:46:08 16 MR. ROMINE: Same objection.

10:46:12 17 THE WITNESS: You want a description
10:46:13 18 or just --

10:46:14 19 BY MR. COLLIER:

10:46:14 20 Q. What -- did you have a title or a
10:46:16 21 job description?

10:46:19 22 A. Salvage man.

10:46:20 23 Q. Salvage man.

10:46:22 24 A. (Witness nodding head up and
10:46:22 25 down.)

10:46:22 1 Q. Now, from 1969 to 1970 and during
10:46:28 2 that period, you left the dump, did you not, as
10:46:32 3 far as being a full-time employee?

10:46:33 4 A. Full-time, yes.

10:46:34 5 Q. All right. And you, as you
10:46:37 6 testified previously, went to work for other
10:46:39 7 entities?

10:46:39 8 A. Correct.

10:46:39 9 Q. From time to time, weekends or
10:46:42 10 evenings, you may have been at the dump, but
10:46:45 11 you did not consider yourself a full-time
10:46:49 12 employee?

10:46:49 13 MR. ROMINE: Same objection.

10:46:50 14 THE WITNESS: Correct.

10:46:50 15 BY MR. COLLIER:

10:46:53 16 Q. All right. Now, during this
10:46:54 17 period -- and I don't really want to focus on
10:46:56 18 what you've referred to as the '60s and I'm --
10:47:00 19 what I'm going to define is the period from
10:47:04 20 1960 to 1969.

10:47:04 21 A. Okay.

10:47:04 22 Q. All right. In terms of fixing
10:47:06 23 certain events, you testified that an
10:47:10 24 incinerator was installed at the dump in 1969
10:47:12 25 or thereabouts?

10:47:14 1 A. Somewhere abouts (sic), yeah.

10:47:15 2 Q. Okay. And was there any kind of
10:47:18 3 incinerator before that period of time?

10:47:20 4 A. No.

10:47:20 5 Q. All right. But the dump itself
10:47:22 6 had always been a burning dump, isn't that
10:47:25 7 true?

10:47:25 8 A. Correct.

10:47:25 9 Q. That is, any -- anything that
10:47:27 10 could be burned was burned prior to disposal?

10:47:30 11 A. Correct.

10:47:30 12 Q. All right. And at this site,
10:47:35 13 there were other operations, recycling
10:47:37 14 operations, weren't there?

10:47:39 15 A. Correct.

10:47:39 16 Q. So some material would be recycled
10:47:42 17 and never dumped at the site, isn't that true?

10:47:44 18 MR. ROMINE: Same objection.

10:47:46 19 THE WITNESS: We would have to be
10:47:47 20 more specific on --

10:47:48 21 BY MR. COLLIER:

10:47:48 22 Q. Well, for -- you mentioned
10:47:50 23 predominantly skids were recycled and never
10:47:53 24 disposed of at the site.

10:47:54 25 A. But what I'm saying is, it was

10:47:55 1 dumped, but after it was dumped, then it was --

10:47:55 2 Q. Okay.

10:47:59 3 A. -- then it was separated.

10:48:00 4 Q. Okay. And one thing I want to

10:48:02 5 focus on is the difference between transport to

10:48:04 6 the site and actual disposal in the landfill.

10:48:07 7 I want to be clear about that, okay?

10:48:09 8 A. Right.

10:48:09 9 Q. Okay. But there was some

10:48:12 10 materials that were actually transported to the

10:48:13 11 site that were never disposed of at the

10:48:16 12 landfill?

10:48:17 13 A. Correct.

10:48:17 14 Q. Okay. Now, you mentioned skids

10:48:23 15 and papers being a couple of examples of that,

10:48:23 16 correct?

10:48:27 17 MR. ROMINE: Same objection.

10:48:29 18 THE WITNESS: Speaking of L.M. Berry

10:48:31 19 or are we speaking in general?

10:48:31 20 BY MR. COLLIER:

10:48:31 21 Q. We're speaking generally at this

10:48:33 22 point.

10:48:33 23 MR. ROMINE: Same objection.

10:48:34 24 THE WITNESS: Yes.

10:48:34 25 BY MR. COLLIER:

10:48:38 1 Q. All right. Now, I'd like to ask
10:48:39 2 you about where you lived during this period of
10:48:42 3 time. Did you live in the Dayton area?

10:48:44 4 A. Yes, I did.

10:48:45 5 Q. Between 1960 and 1969?

10:48:47 6 A. Correct.

10:48:47 7 Q. At what point did you leave the
10:48:49 8 Dayton area?

10:48:51 9 A. I didn't leave Dayton till '04. I
10:48:59 10 think '04 or '05.

10:48:59 11 Q. All right. At one point in time,
10:49:02 12 the South Dayton Dump ceased acceptance of
10:49:05 13 waste, isn't that correct?

10:49:07 14 A. To my knowledge.

10:49:08 15 Q. All right. And do you know when
10:49:09 16 that was?

10:49:10 17 MR. ROMINE: Same objection.

10:49:11 18 THE WITNESS: No.

10:49:12 19 BY MR. COLLIER:

10:49:13 20 Q. Was the South Dayton Dump ever a
10:49:15 21 licensed facility, to your knowledge?

10:49:18 22 A. I don't know.

10:49:18 23 Q. Don't know if it was licensed as a
10:49:21 24 solid waste facility?

10:49:22 25 MR. ROMINE: Asked and answered.

10:49:23 1 THE WITNESS: I don't know.

10:49:24 2 BY MR. COLLIER:

10:49:24 3 Q. Or a --

10:49:25 4 A. I don't know.

10:49:26 5 Q. Was it licensed as a hazardous
10:49:28 6 waste facility?

10:49:30 7 MR. ROMINE: Asked and answered.

10:49:30 8 THE WITNESS: I don't know.

10:49:30 9 BY MR. COLLIER:

10:49:30 10 Q. Was it licensed in any respect as
10:49:32 11 a recycling facility?

10:49:34 12 A. I don't know.

10:49:34 13 Q. Okay. In your deposition earlier
10:49:50 14 in this round, I think it was yesterday, you
10:49:54 15 did talk about L.M. Berry Company, did you not?

10:49:56 16 A. I did.

10:49:57 17 Q. All right. And you talked about
10:50:01 18 old phone books, remember that testimony?

10:50:03 19 A. Yes, sir.

10:50:04 20 Q. All right. I want to focus now
10:50:07 21 just on the phone books and not the source of
10:50:11 22 who may have transported the phone books.

10:50:13 23 A. Okay.

10:50:13 24 Q. All right. The old phone books,
10:50:18 25 do you know on how many occasions you

10:50:20 1 personally observed phone books being
10:50:22 2 transported to the facility?

10:50:26 3 A. Within a year to ten -- nine,
10:50:31 4 ten years of my -- what we're speaking of or
10:50:34 5 what?

10:50:34 6 Q. Whenever you recall, the 1960 or
10:50:39 7 1969 or periodically thereafter.

10:50:41 8 A. I forgot the question.

10:50:42 9 Q. Can you tell me the dates of
10:50:46 10 transport of phone books to the facility?

10:50:48 11 A. The dates?

10:50:49 12 Q. Yeah.

10:50:50 13 A. I'll stick with the '60s to '69.

10:50:54 14 Q. All right. '60 to '69?

10:50:57 15 A. Yeah.

10:50:57 16 Q. All right. And you personally
10:50:58 17 observed these transport of phone books?

10:51:05 18 A. Some of the time.

10:51:06 19 Q. Some of the time?

10:51:07 20 A. (Nodding head up and down.)

10:51:07 21 Q. Can you identify what dates of
10:51:10 22 shipment you actually observed phone books
10:51:12 23 being transported to the facility?

10:51:17 24 A. '65, '66, maybe '67.

10:51:19 25 Q. 1965, 1966 and 1967?

10:51:24 1 A. Right.

10:51:24 2 Q. And you testified in your
10:51:27 3 deposition here that you thought those
10:51:29 4 shipments occurred in March or April?

10:51:33 5 A. Somewhere maybe the beginning of
10:51:35 6 summer, but I thought it was springtime, but,
10:51:37 7 you know.

10:51:38 8 Q. Well, now, March or April, you
10:51:41 9 thought it was in the springtime?

10:51:43 10 A. Right.

10:51:43 11 Q. But you can't be any more
10:51:48 12 definitive?

10:51:48 13 A. No.

10:51:48 14 Q. All right. Isn't it true in your
10:51:52 15 deposition in 2012, you thought those shipments
10:51:55 16 occurred in January or February?

10:51:57 17 A. At this -- without dwelling on it
10:52:01 18 more because of previous knowledge of the phone
10:52:09 19 books, I haven't had a chance to make those
10:52:17 20 decisions at this point.

10:52:18 21 Q. So you can't say whether these
10:52:20 22 shipments in the period of time you described
10:52:22 23 were in January and February or March or April?

10:52:27 24 A. I can't at this point.

10:52:29 25 Q. All right. Now, these phone

10:52:31 1 books, were they White Pages or Yellow Pages or
10:52:36 2 some other form of phone book?

10:52:39 3 A. I think at that particular time
10:52:48 4 there was a White Pages, and then the -- the
10:52:51 5 Yellow Pages.

10:52:53 6 Q. Did these come in separate
10:52:56 7 shipments?

10:52:56 8 A. I don't remember.

10:52:59 9 Q. Can you -- and we'll start with
10:53:01 10 the White Pages. Can you identify the city for
10:53:05 11 which these White Pages would have been
10:53:07 12 published?

10:53:12 13 A. The surrounding area of Dayton.

10:53:15 14 Q. Can you be more specific? Do you
10:53:18 15 personally recollect any city for which these
10:53:21 16 White Pages referred?

10:53:22 17 A. There's a list of them. I mean,
10:53:25 18 do you want me to mention all of them?

10:53:26 19 Q. No. I'm asking you, as you
10:53:27 20 personally observed these shipments, what
10:53:31 21 cities were the Whites Page directories for?

10:53:34 22 A. Dayton.

10:53:35 23 Q. Dayton?

10:53:35 24 A. Yeah.

10:53:36 25 Q. Okay. Anything else? Any other

10:53:39 1 city?

10:53:40 2 A. No.

10:53:41 3 Q. And you're sure these White Pages
10:53:44 4 were from the City of Dayton?

10:53:46 5 A. Pretty sure.

10:53:47 6 Q. And were these shipments on
10:53:54 7 pallets?

10:53:54 8 A. No.

10:53:55 9 Q. And your testimony was these
10:54:03 10 shipments came in by truck, is that correct?

10:54:05 11 A. Correct.

10:54:06 12 Q. All right. But the trucks had no
10:54:08 13 markings?

10:54:09 14 A. Correct.

10:54:10 15 Q. Didn't identify L.M. Berry in any
10:54:13 16 respect?

10:54:13 17 A. No.

10:54:13 18 Q. All right. The -- the phone
10:54:18 19 books, starting with the White Pages, was there
10:54:20 20 any identification of L.M. Berry on these phone
10:54:23 21 books, to your personal recollection?

10:54:26 22 A. I'm not sure.

10:54:27 23 Q. What about the Yellow Pages, same
10:54:32 24 question?

10:54:32 25 A. Same -- same thing.

10:54:33 1 Q. Okay. All you know is there were
10:54:36 2 phone books shipped to the facility?

10:54:39 3 A. Correct.

10:54:40 4 Q. Now, at the time of these
10:54:52 5 shipments -- I think you said it was 1965 to
10:54:55 6 1968? 1965, '66 and '67?

10:55:01 7 A. Correct.

10:55:02 8 Q. Three shipments?

10:55:04 9 A. That I remember quite well, yes.

10:55:07 10 Q. Yes. Your -- again, your personal
10:55:09 11 knowledge.

10:55:09 12 A. Yes.

10:55:09 13 Q. Okay. At that time, you would
10:55:14 14 have been how old in 1965?

10:55:17 15 A. Let's see. 13, I think.

10:55:20 16 Q. 13?

10:55:21 17 A. 13, I think.

10:55:22 18 Q. 13. 14 in 1966 and 15 in 1967?

10:55:26 19 A. Yes.

10:55:27 20 Q. And your response was you were not
10:55:28 21 a full-time employee during that period or were
10:55:34 22 you?

10:55:34 23 MR. ROMINE: Asked and answered.

10:55:35 24 BY MR. COLLIER:

10:55:35 25 Q. You didn't quit school until 1968.

10:55:38 1 A. During the summertime. Full-time
10:55:40 2 during off school periods.

10:55:43 3 Q. Now, the actual operations were
10:55:46 4 under the supervision of Kenneth Grillot, isn't
10:55:50 5 that correct?

10:55:50 6 A. Correct.

10:55:52 7 Q. And the actual handling of the
10:55:53 8 accounting and invoicing was under Alcine's
10:55:56 9 responsibility?

10:55:57 10 A. Correct.

10:55:57 11 Q. And, again, you had no defined
10:55:59 12 duties with respect to either accounting or
10:56:02 13 processing and operations, you were in salvage?

10:56:05 14 A. Correct. Well, I did mention I
10:56:09 15 stapled these tickets -- these things here
10:56:13 16 together (indicating).

10:56:14 17 Q. Now, I'm going to focus on this
10:56:31 18 period, 1965 to 1967, which you can recall
10:56:36 19 shipments of phone books having been made. The
10:56:37 20 incinerator was not in operation during that
10:56:39 21 period of time.

10:56:43 22 A. Yes.

10:56:44 23 Q. That's correct?

10:56:45 24 A. Correct.

10:56:46 25 Q. All right. But there was still

10:56:48 1 burning at the facility?

10:56:50 2 A. Correct.

10:56:50 3 Q. Did you have -- did you personally
10:56:54 4 observe what happened to these annual shipments
10:56:56 5 in '65 through '67? Were the phone books
10:56:56 6 burnt?

10:57:01 7 A. No, no. The earlier years, yes,
10:57:06 8 but after I spoke about the two gentlemen that
10:57:11 9 had the trash truck that threw them in for Bob
10:57:18 10 Aldridge, no.

10:57:19 11 Q. But, again, we want to focus on
10:57:23 12 the period of '65 through '67. We've
10:57:24 13 established the incinerator was not in
10:57:25 14 operation, but there was still burning at the
10:57:28 15 facility.

10:57:28 16 A. Yes.

10:57:28 17 Q. All right. The phone books
10:57:31 18 shipped between '65 and '67, did they go into
10:57:34 19 the burning pit?

10:57:35 20 A. No.

10:57:36 21 Q. Where did they go?

10:57:38 22 A. It depends on what happened to
10:57:42 23 them during the time they were on the dump. If
10:57:45 24 they were left out and got wet, then they were
10:57:47 25 sent down to the third pier to be --

10:57:48 1 Q. Again, this is your personal
10:57:50 2 recollection?

10:57:50 3 A. Yes. They were sent down to the
10:57:53 4 third pier to be buried. If they were still
10:57:55 5 dry and was able to be shredded, they were put
10:57:58 6 on the garbage -- or the dump truck or they
10:58:05 7 call them trash truck.

10:58:08 8 Q. Trash truck?

10:58:08 9 A. You know, like one you see that
10:58:08 10 goes around the neighborhood that they put the
10:58:14 11 garbage in and then it goes down and pushes it
10:58:15 12 up into the thing.

10:58:16 13 Q. All right. Well, let me break it
10:58:17 14 down a little bit more.

10:58:18 15 A. Okay.

10:58:19 16 Q. Again, this period '65 through
10:58:22 17 '67, phone books at the site, were they
10:58:28 18 shredded?

10:58:28 19 A. Not there, no. No.

10:58:30 20 Q. Not at the site?

10:58:31 21 A. No.

10:58:31 22 Q. Did they leave the site?

10:58:33 23 A. Yes, they did.

10:58:34 24 Q. Where did they go?

10:58:36 25 A. I don't know.

10:58:38 1 Q. They were -- were they recycled?

10:58:41 2 MR. COUGHLIN: Objection.

10:58:43 3 THE WITNESS: I don't know.

10:58:43 4 BY MR. COLLIER:

10:58:44 5 Q. But they -- the phone books from
10:58:49 6 '65 to '67 that were at the site, were not
10:58:52 7 disposed of at the site?

10:58:52 8 MR. ROMINE: Asked and answered.
10:58:53 9 Mischaracterizes his testimony.

10:58:53 10 THE WITNESS: Then, again, if they --

10:58:53 11 BY MR. COLLIER:

10:58:57 12 Q. Can you answer that question?

10:58:59 13 A. -- were wet --

10:58:59 14 MR. ROMINE: Object.

10:59:01 15 THE WITNESS: Yes. I'm sorry. Yes.

10:59:02 16 BY MR. COLLIER:

10:59:02 17 Q. Yes, they were taken off the site?

10:59:05 18 MR. ROMINE: Same objection.

10:59:06 19 THE WITNESS: No.

10:59:07 20 BY MR. COLLIER:

10:59:08 21 Q. All right. Were some of them
10:59:11 22 taken offsite?

10:59:12 23 A. Yes.

10:59:12 24 Q. And where did they go?

10:59:16 25 A. Then, again -- I'm trying to --

10:59:21 1 you know, I --

10:59:23 2 Q. And this is your personal

10:59:24 3 recollection. If you don't recall --

10:59:25 4 MR. ROMINE: Asked and answered.

10:59:27 5 THE WITNESS: No, I recall, but I'm

10:59:27 6 trying to, you know --

10:59:27 7 BY MR. COLLIER:

10:59:28 8 Q. Then answer the question.

10:59:30 9 A. Vague, but, yes -- but yet

10:59:38 10 informative, they went to Larry Brandon's

10:59:40 11 Dayton Fiber, I'm almost sure, but to be

10:59:46 12 totally accurate, I don't know.

10:59:49 13 Q. Okay. Do you think it more likely

10:59:58 14 than not that they were taken to Larry

11:00:01 15 Brandon's facility?

11:00:01 16 A. Correct.

11:00:02 17 Q. Okay. And that is whether they

11:00:05 18 were wet or not?

11:00:08 19 A. Dry.

11:00:09 20 Q. Dry?

11:00:10 21 A. (Nodding head up and down.)

11:00:10 22 Q. If they were -- if the phone books

11:00:12 23 during this period, '65 to '67, were dry, they

11:00:16 24 were shredded and then taken to Larry Brandon's

11:00:19 25 recycling facility?

11:00:20 1 A. No.

11:00:20 2 Q. Were they shredded?

11:00:23 3 A. Yes.

11:00:23 4 Q. And then what happened to them?

11:00:26 5 A. They were processed into

11:00:28 6 insulation.

11:00:29 7 Q. At Larry's facility?

11:00:31 8 A. Correct.

11:00:31 9 Q. Okay. And was Larry's facility at

11:00:35 10 the site of the South Dayton Dump or somewhere

11:00:37 11 else?

11:00:37 12 A. Somewhere else.

11:00:37 13 Q. Okay. So they were taken offsite?

11:00:40 14 A. Correct.

11:00:40 15 Q. Okay. And would that be the

11:00:43 16 routine then, if phone books were dry and

11:00:47 17 salvageable, they were taken offsite for

11:00:50 18 recycling?

11:00:50 19 A. Correct.

11:00:51 20 Q. Now, if they weren't taken offsite

11:00:58 21 to Larry's facility, what, if anything, would

11:01:02 22 happen to those phone books during the period

11:01:02 23 of '65 to '67?

11:01:06 24 A. Taken down to the third pier and

11:01:08 25 buried.

11:01:09 1 Q. Okay. And did you personally
11:01:13 2 observe phone books being buried in the third
11:01:16 3 tier?

11:01:16 4 A. Yes.

11:01:16 5 Q. And they were never burned onsite?

11:01:23 6 A. No.

11:01:25 7 Q. And after 1969, when the
11:01:33 8 incinerator was in place, and, again, based on
11:01:38 9 your personal knowledge, were the phone books
11:01:41 10 incinerated?

11:01:44 11 A. No. As I indicated yesterday and
11:01:48 12 possibly this morning, nothing could go but
11:01:50 13 wood.

11:01:50 14 Q. All right. After 1969 when the
11:01:53 15 Dayton Fiber facility was opened by Larry
11:01:56 16 Brandon, phone books were routinely taken to
11:01:58 17 that facility?

11:02:01 18 A. Some of them.

11:02:03 19 Q. Well, again, question, some of
11:02:06 20 them were and some of them weren't?

11:02:08 21 A. Correct.

11:02:09 22 Q. All right. And what would -- what
11:02:12 23 would be the circumstances defining where they
11:02:12 24 went?

11:02:16 25 A. Whether they were wet or not.

11:02:17 1 Q. Whether they were wet. Okay.
11:02:25 2 Now, for purposes of your testimony in 2012 and
11:02:28 3 for purposes of your deposition yesterday and
11:02:32 4 today, you were provided no documents with
11:02:37 5 regard to the source of these phone books, were
11:02:39 6 you?

11:02:39 7 A. No.

11:02:40 8 Q. You had no dump receipts to
11:02:42 9 review?

11:02:43 10 A. No.

11:02:44 11 Q. You had no logs?

11:02:46 12 A. No.

11:02:46 13 Q. No deposit tickets?

11:02:48 14 A. No.

11:02:49 15 Q. No invoices?

11:02:50 16 A. No.

11:02:51 17 Q. None of those that would indicate
11:02:52 18 the source as being L.M. Berry?

11:02:54 19 A. No.

11:02:54 20 Q. You had no other shipping
11:02:57 21 documents?

11:02:57 22 A. No.

11:02:57 23 Q. You had no waste profile sheets?

11:03:01 24 A. No.

11:03:01 25 Q. You had no documents whatsoever to

11:03:06 1 establish that L.M. Berry was the source of
11:03:07 2 those phone books?

11:03:09 3 A. Correct.

11:03:10 4 Q. All right. And you had no contact
11:03:20 5 at L.M. Berry that you personally dealt with?

11:03:22 6 A. No.

11:03:23 7 Q. You did no billing to L.M. Berry?

11:03:25 8 A. No.

11:03:26 9 Q. In terms of the volume that
11:03:31 10 actually was disposed of in the landfill of
11:03:35 11 these phone books, there's no way you can
11:03:38 12 determine what the volume of those phone books
11:03:41 13 was?

11:03:43 14 A. I don't understand the question.

11:03:44 15 Q. There's no -- you have no
11:03:46 16 documentation to establish what the volume of
11:03:48 17 those phone books were --

11:03:50 18 A. No.

11:03:50 19 Q. -- during the period from '65 to
11:03:53 20 '67, or what the weight would have been?

11:03:56 21 A. No.

11:03:57 22 Q. When you say the old phone books
11:04:03 23 were disposed of at the site that were wet, was
11:04:06 24 there a particular tier that they were disposed
11:04:09 25 of?

11:04:09 1 A. Right, the third tier.

11:04:10 2 Q. The third tier?

11:04:11 3 A. Right.

11:04:12 4 Q. Okay. If I can have a moment.

11:04:25 5 Oh, is the South Dixie Highway also the

11:04:32 6 Kettering Road?

11:04:33 7 A. Kettering Boulevard, yeah.

11:04:44 8 MR. COLLIER: Okay. Just give me a

11:04:45 9 moment, I think I'm about done. I'm going to take

11:05:12 10 a break, and just give me a minute.

11:05:19 11 (Pause in proceedings.)

11:05:21 12 BY MR. COLLIER:

11:16:04 13 Q. Real quick -- we can go back on

11:16:07 14 the record -- I did just have one area -- small

11:16:09 15 area of questions, and that skids, you

11:16:12 16 mentioned skids and L.M. Berry. Skids were

11:16:14 17 routinely recycled, repaired and taken offsite?

11:16:20 18 A. Other than broken ones, they were

11:16:20 19 incinerated.

11:16:23 20 Q. And there's no way today you can

11:16:25 21 identify any skids that were broken and

11:16:28 22 incinerated from L.M. Berry?

11:16:29 23 A. No.

11:16:30 24 MR. COLLIER: That's all the

11:16:32 25 questions I have. Thank you.

11:16:32 1 THE WITNESS: Thank you.

11:16:32 2 CROSS-EXAMINATION

11:16:32 3 BY MR. HARBECK:

11:17:15 4 Q. Good morning, Mr. Grillot.

11:17:16 5 A. Good morning.

11:17:17 6 Q. Are you still feeling okay?

11:17:19 7 A. Yes. Thank you.

11:17:19 8 Q. Please let me know if you don't

11:17:21 9 understand a question that I ask.

11:17:23 10 A. Okay.

11:17:23 11 Q. And also make sure -- this has

11:17:26 12 happened from time to time -- that when you

11:17:28 13 answer either yes or no, you -- you verbally

11:17:31 14 say it as opposed to nodding or shaking your

11:17:33 15 head or saying uh-huh or um-hum.

11:17:34 16 A. Okay.

11:17:35 17 Q. Because then we don't know what

11:17:37 18 you said later when we're reading the

11:17:38 19 transcript.

11:17:39 20 A. Correct.

11:17:39 21 Q. I want to talk just very briefly

11:17:42 22 about McCall's --

11:17:45 23 A. Okay.

11:17:46 24 Q. -- waste that you testified about

11:17:47 25 earlier. I believe that you said the first

11:17:52 1 time you personally observed McCall's waste
11:17:54 2 being taken to the site was in 1968, is that
11:17:59 3 correct?

11:17:59 4 A. No, I thought I said that I
11:18:00 5 remember magazine covers and sometime
11:18:05 6 magazines, find them in piles of trash.

11:18:08 7 Q. I understand that.

11:18:09 8 A. Okay.

11:18:09 9 Q. But the first time you saw a load
11:18:13 10 of any type of waste from McCall's personally
11:18:15 11 was around 1968, that's what you said earlier.
11:18:19 12 Do you remember that?

11:18:20 13 A. Yes.

11:18:20 14 Q. And you testified that you may
11:18:23 15 have seen some magazines before 1968 that had
11:18:27 16 the name McCall's on them, right?

11:18:29 17 A. Right. Correct.

11:18:30 18 Q. Now, you don't know at that point
11:18:32 19 whether those magazines actually were waste
11:18:35 20 from McCall's or waste from another company
11:18:38 21 that was throwing away old magazines, do you?

11:18:40 22 A. Correct.

11:18:41 23 Q. Okay. And would it be fair to say
11:18:45 24 that the -- the vast majority of the waste that
11:18:49 25 you personally observed being disposed of by

11:18:53 1 McCall's consisted of cardboard, paper waste
11:18:58 2 and skids?

11:18:59 3 A. Correct.

11:19:02 4 Q. The vast majority, correct?

11:19:03 5 A. The vast majority.

11:19:06 6 Q. Okay. I want to talk just briefly
11:19:10 7 about NCR waste. You testified earlier that
11:19:15 8 waste from NCR and waste from Standard Register
11:19:18 9 was pretty much the same, correct?

11:19:20 10 A. Correct.

11:19:20 11 Q. And you described the Standard
11:19:24 12 Register waste as including some plastic
11:19:27 13 related waste, some things that were coated in
11:19:29 14 plastic, correct?

11:19:29 15 A. Correct.

11:19:30 16 Q. And did the NCR waste also consist
11:19:32 17 of that type of waste, as best you can
11:19:32 18 remember?

11:19:36 19 A. I don't remember.

11:19:36 20 Q. Okay. Would it be -- since they
11:19:39 21 were similar, would you agree that the NCR
11:19:42 22 waste likely contained that type of plastic
11:19:44 23 waste, too?

11:19:45 24 MR. ROMINE: Objection. Calls for
11:19:45 25 opinion.

11:19:45 1 BY MR. HARBECK:

11:19:45 2 Q. Go ahead.

11:19:46 3 A. Yes.

11:19:48 4 Q. Okay. And any plastic waste from
11:19:50 5 NCR would have been burned just like the waste
11:19:53 6 from Standard Register, is that correct?

11:19:54 7 A. No.

11:19:56 8 Q. Because you testified that the
11:19:58 9 waste from plastic -- from Standard Register
11:20:03 10 would have been first burned and then later
11:20:05 11 buried. That's what you said happened to the
11:20:09 12 Standard Register plastic type waste --

11:20:10 13 A. No, I --

11:20:10 14 Q. -- is that correct?

11:20:11 15 A. I thought I -- do you want me to
11:20:12 16 correct what I thought I said or what I might
11:20:14 17 have said?

11:20:15 18 Q. Tell me what you -- tell me what
11:20:15 19 you thought you said.

11:20:16 20 A. I thought I said I had to take
11:20:19 21 screwdrivers and stuff and take the plastic
11:20:22 22 off, and then they were put on the third pier,
11:20:24 23 I thought.

11:20:24 24 Q. Okay. That's fine. I think we're
11:20:27 25 saying the same thing. So the plastics that

11:20:29 1 were on any waste from either Standard Register
11:20:31 2 or NCR, you removed the plastics and those were
11:20:35 3 then put on the third tier, correct?

11:20:35 4 A. Correct.

11:20:37 5 Q. And those were ultimately then
11:20:39 6 buried?

11:20:40 7 A. Yes.

11:20:42 8 Q. Okay. Could some of that waste
11:20:45 9 also have been burned when the pit caught on
11:20:47 10 fire from time to time?

11:20:47 11 A. Correct.

11:20:48 12 Q. Now, Dayton-Walther, in your first
11:20:56 13 deposition, you recalled a little bit more
11:20:59 14 about the waste from Dayton-Walther than you
11:21:01 15 see to recall this morning.

11:21:03 16 A. Correct.

11:21:03 17 Q. So let me just tell you what you
11:21:05 18 said then and see if that's consistent now
11:21:06 19 with -- if that rings a bell.

11:21:08 20 A. Okay.

11:21:08 21 Q. You said Dayton-Walther waste
11:21:11 22 included metal products.

11:21:12 23 A. To my knowledge, yes.

11:21:13 24 Q. Okay. And you also testified in
11:21:16 25 your first deposition that Dayton-Walther waste

11:21:18 1 was delivered to the site about once a month.

11:21:24 2 A. I don't recall, but, yes.

11:21:25 3 Q. Does that sound about right now as
11:21:26 4 you're sitting here?

11:21:28 5 A. Yes.

11:21:28 6 Q. Okay. You talked about wood
11:21:32 7 waste, and at one point you were talking about
11:21:34 8 wood waste kind of overwhelming the
11:21:36 9 incinerator. Do you remember that?

11:21:37 10 A. Yeah.

11:21:37 11 Q. And that wood waste, was it --
11:21:42 12 I -- is it fair to assume or fair to say that
11:21:44 13 that wood waste was wood waste from all sorts
11:21:47 14 of customers, not just from one particular
11:21:49 15 customer?

11:21:50 16 A. Yes.

11:21:50 17 Q. Okay. I want to talk just a
11:21:57 18 little bit more about Container Services and
11:22:01 19 General Refuge.

11:22:02 20 A. Okay.

11:22:03 21 Q. Now, you earlier testified you
11:22:06 22 believed that those two companies were somehow
11:22:08 23 affiliated or connected, correct?

11:22:10 24 A. Correct.

11:22:10 25 Q. And in your first deposition you

11:22:13 1 said Container Services was involved in the
11:22:16 2 servicing of the containers themselves and that
11:22:20 3 General Refuge was the actual hauling company.
11:22:22 4 Do you remember that?

11:22:23 5 A. Yes.

11:22:24 6 Q. Okay. And that's -- is that
11:22:26 7 consistent with your memory today?

11:22:27 8 A. But I think I'm maybe not coming
11:22:33 9 forth or -- you know, how it actually works,
11:22:36 10 but, yes.

11:22:37 11 Q. Okay. So just so I'm clear,
11:22:39 12 General Refuge was the company that would pick
11:22:43 13 up waste from various customers, and that was
11:22:45 14 the company that would actually haul it to the
11:22:49 15 South Dayton Dump, is that right?

11:22:50 16 A. No.

11:22:50 17 Q. Well, you -- again, when you were
11:22:53 18 talking about this in your first deposition,
11:22:54 19 you said Container Services did things like
11:22:58 20 service the containers, fix them, rebuild them,
11:23:01 21 paint them, weld them, and that General Refuse
11:23:03 22 was the arm of the company that was actually
11:23:06 23 the hauling business.

11:23:06 24 A. No, I -- what I thought I said was
11:23:10 25 that General Refuge handled most garbage, okay,

11:23:16 1 which wasn't allowed on South Dayton Dump.

11:23:18 2 And that Container Service did
11:23:23 3 most of the big Dumpsters, the 44 yard and the
11:23:28 4 60 yard that serviced big companies, and then
11:23:31 5 there was a third entity within Aldridge and
11:23:35 6 Brandon's operation.

11:23:36 7 Q. Was that the Dayton Fiber entity?

11:23:36 8 A. No.

11:23:40 9 Q. What was the name of that entity?

11:23:41 10 A. I still can't remember the actual
11:23:43 11 name, but they're the ones that built the
11:23:46 12 containers and -- brand new from metal and then
11:23:50 13 spray painted.

11:23:53 14 Q. Okay. And I just want to go back
11:23:56 15 to your first deposition when you testified
11:23:57 16 about General Refuse and Container Services.

11:24:12 17 You were being asked about
11:24:15 18 Container Service, and the question was, what
11:24:20 19 was their connection to South -- to SDD, did
11:24:22 20 they bring waste, and you testified Larry
11:24:25 21 Brandon and another gentleman ran that company
11:24:28 22 before they were bought out by a Chicago-based
11:24:30 23 outfit, and they would mainly dump at
11:24:33 24 Blaylock's because it was mostly garbage and
11:24:35 25 stuff.

11:24:35 1 There was a couple chicken packing
11:24:37 2 places, Valley Farms, I think, all the chicken
11:24:40 3 parts would come in that.

11:24:42 4 Question, they would go to
11:24:43 5 Blaylock, the chicken parts? Yeah. Question,
11:24:46 6 or to you? Yeah. Okay.

11:24:50 7 Answer, but that was General
11:24:51 8 Refuse and Container Service. Container
11:24:53 9 Service was more of a service of the
11:24:55 10 containers. They'd bring them in.

11:24:57 11 When I worked for Larry's that --
11:24:59 12 they would bring them in and we would reweld
11:25:02 13 them if they got bent up and paint them, but
11:25:04 14 General Refuse was the actual hauling company.

11:25:07 15 A. That last statement is not
11:25:12 16 completely accurate, and what I just said there
11:25:16 17 is correct, that's what I'm trying to say, that
11:25:24 18 General Refuge mostly handled garbage, the
11:25:28 19 waste of -- of chicken parts. And that
11:25:37 20 Container Service, you know, serviced -- or
11:25:38 21 brought the containers in if they were broke.

11:25:42 22 They're the ones that did the
11:25:43 23 biggest hauling of stuff that was, you know,
11:25:49 24 burnt at the incinerator, so I haven't -- I
11:25:52 25 wasn't -- haven't been more directly dividing

11:25:55 1 them up, you know, and from what you just read,
11:25:59 2 I think it sounds consistent with what I'm
11:26:02 3 saying right now, so --

11:26:02 4 Q. Okay. So let me understand this
11:26:03 5 now. It's your testimony that -- I think I've
11:26:07 6 got it -- General Refuge -- the garbage that
11:26:11 7 General Refuge picked up, which wasn't the
11:26:13 8 burnable sort of stuff, would go to another
11:26:17 9 dumpsite, is that correct?

11:26:17 10 A. Correct.

11:26:18 11 Q. And the stuff that Container
11:26:21 12 Services picked up would be the burnable stuff
11:26:25 13 and the wood and the paper, correct?

11:26:27 14 A. Correct.

11:26:27 15 Q. Okay. Do you know where the
11:26:34 16 Blaylock dump was?

11:26:39 17 A. I do. I don't recall right at
11:26:42 18 this moment.

11:26:42 19 Q. Have you ever heard of the
11:26:46 20 Cardington Road Landfill?

11:26:46 21 A. If I did, it was from that piece
11:26:52 22 of paper, but I don't -- it's not real common
11:26:54 23 to my knowledge right now.

11:26:56 24 Q. And the piece of paper is
11:26:58 25 Exhibit 1 that the -- the map of the landfills

11:27:01 1 that you were shown earlier.

11:27:03 2 A. Right. Yes.

11:27:03 3 Q. Okay. Was the reason that the
11:27:11 4 garbage went to the Blaylock site was because
11:27:16 5 Blaylock was not a burning dump?

11:27:18 6 A. Correct.

11:27:19 7 Q. So the stuff that was taken by
11:27:23 8 Container Services to the South Dayton Dump was
11:27:27 9 the burnable stuff, correct?

11:27:28 10 A. Correct.

11:27:29 11 Q. And that consisted of cardboard,
11:27:33 12 skids and other wood, correct?

11:27:35 13 A. Correct.

11:27:35 14 Q. Okay. As far as you know, were
11:27:40 15 the loads from -- any loads from Container
11:27:44 16 Services, therefore, burned at the -- that were
11:27:46 17 taken to the South Dayton Dump burned at the
11:27:48 18 South Dayton Dump?

11:27:48 19 A. Could you please rephrase that?

11:27:49 20 Q. Were -- any loads that were from
11:27:52 21 Container Services that were taken to the South
11:27:54 22 Dayton Dump, did they end up being burned at
11:27:56 23 the South Dayton Dump?

11:27:57 24 A. Yes.

11:27:57 25 Q. Okay. Do you know, did Container

11:28:04 1 Service or General Refuge have its own
11:28:06 2 landfill?

11:28:10 3 A. Yeah, that would be -- well, it
11:28:15 4 would be the Powell Road Landfill, but that
11:28:20 5 wasn't till later, like '68, '69, that it got
11:28:24 6 into operation.

11:28:26 7 Q. So it's your -- at least your
11:28:30 8 belief today that the Powell Road Landfill was
11:28:35 9 owned by the Container Service, General Refuge
11:28:39 10 operation?

11:28:39 11 A. To my knowledge, yes.

11:28:40 12 Q. Okay. Do you know where Bertwin
11:28:48 13 Drive is?

11:28:51 14 A. It rings a bell, but -- I know it
11:28:55 15 like I know my name, but it's not coming to me.

11:28:57 16 Q. Okay. You said the location where
11:29:00 17 Container Services, Larry's Brandon's --

11:29:03 18 A. Facility.

11:29:04 19 Q. -- facility was, the name has
11:29:05 20 changed over time?

11:29:06 21 A. Yes.

11:29:07 22 Q. You believe it's now on North
11:29:09 23 Springboro Pike?

11:29:09 24 A. Yes.

11:29:09 25 Q. At one point could the address --

11:29:12 1 or if you can remember, was the address 2208
11:29:17 2 Bertwin Drive?

11:29:17 3 A. Yeah, I think so.

11:29:18 4 Q. That sounds right?

11:29:19 5 A. Yeah.

11:29:19 6 Q. Okay. You believe that this
11:29:22 7 facility was -- you said your belief was it's
11:29:25 8 about a quarter mile away?

11:29:28 9 A. Right.

11:29:28 10 Q. Could it have been longer than
11:29:28 11 that, maybe a couple miles away?

11:29:28 12 A. Oh, no.

11:29:30 13 Q. Are you sure about that?

11:29:32 14 A. I'm sure.

11:29:32 15 Q. Okay. But it's on North
11:29:34 16 Springboro Pike. Has Bertwin Drive -- the name
11:29:39 17 of Bertwin Drive changed to North Springboro
11:29:42 18 Pike in the last number of years?

11:29:43 19 A. Like I said, there for a while, it
11:29:45 20 was changing so much, I -- so I -- I don't
11:29:48 21 remember.

11:29:48 22 Q. Okay.

11:29:54 23 A. I do remember where Baylock (sic)
11:29:56 24 now was, so --

11:29:56 25 Q. I'm sorry?

11:29:58 1 A. I remember now where Baylock was.

11:29:59 2 Q. Where was that?

11:30:01 3 A. On South Dixie Drive and Dorothy
11:30:01 4 Lane.

11:30:06 5 Q. Okay. On both of those roads or
11:30:10 6 was it off South Dixie?

11:30:12 7 A. It was more on South Dixie.

11:30:14 8 Q. Than -- than Dorothy Lane?

11:30:14 9 A. Correct.

11:30:17 10 Q. The tipping fee for the landfill
11:30:24 11 or the fee, you know, the amount that people
11:30:25 12 would pay when they disposed at landfills,
11:30:28 13 you've talked about the cash transactions and
11:30:31 14 what people were charged for that.

11:30:32 15 Do you know what the charge was
11:30:33 16 for people that were the regular accounts or
11:30:36 17 the ones that were billed, you know, on a
11:30:39 18 monthly basis, how much they paid per load?

11:30:42 19 A. No.

11:30:43 20 Q. Okay. So throughout any period of
11:30:45 21 time, either the '60s or '70s, that's something
11:30:49 22 you just didn't know about, is that fair, in
11:30:51 23 terms of how much?

11:30:52 24 A. Correct.

11:30:52 25 Q. Okay. Dayton Fiber, this

11:31:05 1 operation that Larry Brandon operated --

11:31:10 2 A. Correct.

11:31:10 3 Q. -- where was that located?

11:31:13 4 A. West River Road, I believe.

11:31:20 5 Q. Do you know -- and I'm sorry if

11:31:25 6 you were asked this before, I just can't

11:31:27 7 remember what your answer was -- when he

11:31:29 8 started that company?

11:31:36 9 A. I would have to say '68.

11:31:39 10 Q. Okay. And as you described it, it

11:31:43 11 was a -- an operation that would take in paper

11:31:47 12 waste from various places, including paper

11:31:49 13 waste that had been taken to the South Dayton

11:31:51 14 Dump, and he -- he made it into insulation?

11:31:54 15 A. Correct.

11:31:54 16 Q. How long did he run that business?

11:31:58 17 A. I think Larry had sold that

11:32:04 18 business, I think, in '72, '73, something like

11:32:06 19 that, I think. I'm not sure.

11:32:08 20 Q. Okay. So you think it was in --

11:32:09 21 in operation for roughly five years or so?

11:32:12 22 A. Yeah.

11:32:12 23 Q. Okay. And you worked for Larry

11:32:18 24 at Dayton Fiber for a period of time, correct?

11:32:18 25 A. No.

11:32:21 1 Q. Never?

11:32:21 2 A. No.

11:32:22 3 Q. Okay. You worked for Larry at
11:32:27 4 Container Services or General Refuge for a
11:32:30 5 chunk of time, correct?

11:32:31 6 A. Not General Refuge -- well, yes, I
11:32:34 7 did. Yes, I did.

11:32:34 8 Q. Okay. And in your first
11:32:38 9 deposition, you said you started working for
11:32:40 10 Larry at General Refuge, and the first thing
11:32:42 11 you did was built some offices, do you remember
11:32:44 12 that?

11:32:46 13 A. That was in the time period, yes.

11:32:48 14 Q. In the time period -- when did you
11:32:50 15 start doing that? I assume that was after
11:32:52 16 Doyle's?

11:32:52 17 A. Yes.

11:32:53 18 Q. Okay.

11:32:54 19 A. I don't remember.

11:32:59 20 Q. Was it in the '70s?

11:33:05 21 A. No. I don't remember.

11:33:06 22 Q. Okay. Well, I know you started
11:33:08 23 working for Doyle's around, what, when you were
11:33:11 24 16 years old?

11:33:11 25 A. '68, something --

11:33:13 1 Q. So that puts you in '68?

11:33:15 2 A. (Witness nodding head up and

11:33:15 3 down.)

11:33:15 4 Q. And then you had a job at Liberal

11:33:15 5 Markets --

11:33:18 6 A. Um-hum.

11:33:18 7 Q. -- a little bit after that?

11:33:19 8 A. (Witness nodding head up and

11:33:19 9 down.)

11:33:19 10 Q. And then sometime after that, did

11:33:22 11 you --

11:33:23 12 A. It would have to be '70s, yeah.

11:33:25 13 Q. It would be in the '70s?

11:33:27 14 A. Yeah.

11:33:27 15 Q. Okay. You also stated that you

11:33:33 16 pressure washed and painted some General Refuse

11:33:34 17 trucks while working for Larry, do you remember

11:33:36 18 that?

11:33:36 19 A. Correct.

11:33:36 20 Q. Was that the same period of time

11:33:38 21 that you were working for him as Container

11:33:40 22 Services or General Refuge?

11:33:41 23 A. At the beginning, but -- yeah, at

11:33:43 24 the beginning.

11:33:44 25 Q. Okay. How long did you work for

11:33:45 1 Larry at Container Services or General Refuge?

11:33:52 2 A. I was switched around to so many
11:33:57 3 different locations, I couldn't really narrow
11:34:00 4 it down.

11:34:01 5 Because one day they might send me
11:34:02 6 up to one place and another day somewhere else,
11:34:05 7 so I was sort of a go between all of them,
11:34:08 8 so --

11:34:08 9 Q. Okay. Do you remember roughly for
11:34:11 10 what period of time you worked for him in that
11:34:14 11 capacity?

11:34:18 12 A. I think '70 --

11:34:22 13 Q. I don't know -- I know you can't
11:34:23 14 pinpoint a year. I want to know just about how
11:34:26 15 long.

11:34:26 16 A. I'm trying to think. '70 to '73,
11:34:28 17 something like that maybe.

11:34:30 18 Q. So you think about three years?

11:34:32 19 A. Yeah, something like that.

11:34:34 20 Q. And it could have been sometime in
11:34:35 21 the mid '70s?

11:34:36 22 A. Right.

11:34:37 23 Q. Is that how you also became
11:34:44 24 familiar with the General Refuge trucks by
11:34:47 25 working at that facility?

11:34:48 1 A. Yes.

11:34:49 2 Q. I assume you got paid by Container
11:34:55 3 Services for doing that work, correct?

11:34:57 4 A. Correct.

11:34:57 5 Q. Do you recall how much?

11:35:04 6 A. By hour or weekly?

11:35:08 7 Q. Weekly.

11:35:12 8 A. I probably grossed a couple
11:35:15 9 hundred dollars.

11:35:15 10 Q. Okay. And then taxes would come
11:35:17 11 off of that?

11:35:19 12 A. Correct.

11:35:19 13 Q. Okay. Was there ever a trailer
11:35:27 14 park at the South Dayton Dump site?

11:35:29 15 A. A trailer park?

11:35:30 16 Q. A trailer park.

11:35:34 17 A. No.

11:35:34 18 Q. How long have you been back in the
11:35:42 19 Dayton area after your last deposition? How
11:35:47 20 long have you been living or residing in the
11:35:50 21 Dayton area?

11:35:50 22 A. A year and a half maybe.

11:36:27 23 MR. HARBECK: Okay. That's it.

11:36:30 24 Thanks so much for your time.

11:36:32 25 THE WITNESS: You're welcome.

11:37:07 1 CROSS-EXAMINATION

11:37:07 2 BY MR. McCALL:

11:37:09 3 Q. Mr. Grillot, my name is Duke
11:37:10 4 McCall. I represent Reynolds and Reynolds in
11:37:12 5 this case. I'm going to ask you a few
11:37:15 6 follow-up questions as well. I just wanted to
11:37:17 7 first make sure you're still feeling okay.

11:37:20 8 A. Yes.

11:37:20 9 Q. And you're at this point feeling
11:37:24 10 well enough to continue to testify?

11:37:26 11 A. Yes, I am.

11:37:27 12 Q. Okay. I want to start by asking
11:37:31 13 you a few clarifying questions concerning the
11:37:35 14 testimony you gave yesterday as well as earlier
11:37:38 15 today. When did you first move to North
11:37:38 16 Carolina?

11:37:52 17 A. '78 -- I mean '08.

11:37:56 18 Q. Did you live continuously in North
11:37:59 19 Carolina from 2008 till some point in the
11:38:03 20 future?

11:38:04 21 A. No.

11:38:04 22 Q. Okay. How long did you live in
11:38:07 23 North Carolina after moving there in 2008?

11:38:11 24 A. Could you rephrase that, please?

11:38:12 25 Q. My question is, after you moved to

11:38:14 1 North Carolina in 2008, how long did you live
11:38:17 2 there before moving to somewhere else?

11:38:19 3 A. Thirteen weeks.

11:38:21 4 Q. Thirteen weeks. At some point in
11:38:27 5 time, did you live in North Carolina
11:38:29 6 permanently?

11:38:29 7 A. Yes.

11:38:29 8 Q. And when did that happen?

11:38:36 9 A. I think 2010.

11:38:38 10 Q. And how long did you live in North
11:38:40 11 Carolina after moving there permanently in
11:38:42 12 2010?

11:38:44 13 A. Two years.

11:38:48 14 Q. And when did you -- when you moved
11:38:51 15 out of North Carolina, where did you move to?

11:38:54 16 A. Dayton, Ohio.

11:38:54 17 Q. And when was that?

11:39:01 18 A. Oh, spring of 2012.

11:39:04 19 Q. And at some point, did you return
11:39:09 20 back to North Carolina after moving to Dayton
11:39:11 21 in the spring of 2012?

11:39:14 22 A. No.

11:39:14 23 Q. I want to step back a little bit
11:39:30 24 in time and ask you about an earlier time
11:39:32 25 period, specifically the 1970s. I understand

11:39:39 1 from -- let me rephrase that.

11:39:41 2 You were not present at the site
11:39:44 3 during normal working hours during the week in
11:39:48 4 the 1970s, were you? By the site, I'm
11:39:49 5 referring to the South Dayton Dump.

11:39:53 6 A. Could you repeat that, please?

11:39:54 7 Q. I will try hard to clarify that
11:39:58 8 question. I'm trying to understand when you
11:40:02 9 were at the dump in the 1970s, so let me try to
11:40:06 10 put that question a little more artfully.

11:40:09 11 You were not present at the site
11:40:12 12 during normal working hours during the weekday
11:40:15 13 in the 1970s, were you?

11:40:20 14 A. No.

11:40:20 15 Q. When did -- and you've talked a
11:40:37 16 bit about cardboard recycling. When did that
11:40:39 17 begin at the South Dayton Dump?

11:40:43 18 A. '67. Around '67.

11:40:59 19 Q. You've also testified a bit about
11:41:02 20 paper recycling. When did that begin?

11:41:06 21 A. Two -- about two years later, so
11:41:10 22 at least '68, something like that.

11:41:15 23 Q. You also testified about the reuse
11:41:19 24 of pallet or skids. When did that begin?

11:41:26 25 A. I don't know.

11:41:29 1 Q. Did that begin in -- what decade
11:41:32 2 did the -- were -- did folks at the South
11:41:38 3 Dayton Dump begin to reuse or recycle or send
11:41:40 4 the pallets to Skid Row, as you referred to it?

11:41:43 5 A. '70 -- or I mean, '60s.

11:41:47 6 Q. So it began at some point in the
11:41:51 7 '60s, is that correct?

11:41:51 8 A. Right.

11:41:53 9 Q. Are you familiar with an address,
11:42:11 10 7561 Walmac Street in Huber Heights, Ohio?

11:42:12 11 A. Yes.

11:42:12 12 Q. Okay. And what's at that
11:42:15 13 location?

11:42:17 14 A. Donna's residence.

11:42:19 15 Q. And what's Donna's last name?

11:42:21 16 A. Moeller, M O E L L E R.

11:42:24 17 Q. Now, you've been asked a number of
11:42:32 18 questions already today about your prior
11:42:34 19 deposition in April of 2012. I'm going to ask
11:42:39 20 you a few more.

11:42:39 21 A. Okay.

11:42:40 22 Q. And one of the questions you were
11:42:43 23 asked during that deposition was about the
11:42:45 24 companies that disposed of waste at the South
11:42:48 25 Dayton Dump. Do you recall being asked that?

11:42:52 1 A. Yes.

11:42:52 2 Q. And specifically you were asked
11:42:59 3 about the -- providing a list of companies who
11:43:02 4 disposed of at the dump by what you -- the list
11:43:08 5 you provided to Mr. Walsh. Do you recall that
11:43:11 6 line of questioning?

11:43:11 7 A. Yes.

11:43:12 8 Q. Okay. And you were asked -- I'm
11:43:15 9 going to read this to you and then ask you a
11:43:15 10 question about it.

11:43:17 11 You were asked, did you give them
11:43:17 12 the name first or did they give you the name
11:43:20 13 first? Your answer was, I gave them the name
11:43:22 14 first.

11:43:23 15 Question, with what names did you
11:43:25 16 give them? And your answer was, several, but
11:43:28 17 your company was mentioned.

11:43:30 18 I don't recall who asked you the
11:43:32 19 question, but the follow-up question was, what
11:43:34 20 names did you give them? And your answer was,
11:43:36 21 it would have been General Motors, Inland,
11:43:40 22 Delphi, Frigidaire, Monsanto, Dayton Tire and
11:43:44 23 Rubber, McCall's, Sherwin-Williams, Durrel
11:43:49 24 Paint, Franklin Iron and Metal, Patterson Iron
11:43:52 25 and Metal, Duriron, A.E. Fickert and Son,

11:43:56 1 Dayton-Walther. That's pretty much the list I
11:43:59 2 can remember.

11:44:00 3 A. Correct.

11:44:01 4 Q. Was that testimony true and
11:44:04 5 accurate when you gave it at your deposition?

11:44:06 6 A. At that particular time, yes.

11:44:08 7 Q. And it was complete, to the best
11:44:11 8 of your recollection, at that time, wasn't it?

11:44:14 9 A. No.

11:44:15 10 MR. ROMINE: Objection.

11:44:15 11 Mischaracterizes his testimony.

11:44:16 12 THE WITNESS: No.

11:44:16 13 BY MR. McCALL:

11:44:19 14 Q. So your -- the testimony you gave
11:44:20 15 at your deposition, you knew it was then
11:44:22 16 complete at the time you gave it?

11:44:23 17 A. Pardon me? I couldn't hear.

11:44:24 18 Q. My question was, was your
11:44:27 19 testimony complete, to the best of your
11:44:30 20 recollection, as of April 24th, 2012?

11:44:33 21 A. Correct.

11:44:34 22 Q. You did not intentionally fail to
11:44:37 23 disclose any companies that you recalled
11:44:42 24 disposing of waste at your prior deposition?

11:44:42 25 A. Correct.

11:44:43 1 Q. Now, you did not mention, during
11:44:48 2 that deposition on April 24th, 2012, any
11:44:51 3 disposal by Reynolds and Reynolds, did you?

11:44:53 4 A. No.

11:44:54 5 Q. Now, the list you provided to Mr.
11:45:02 6 Walsh that you identified in the April 24th,
11:45:04 7 2012, deposition, was that your recollection of
11:45:07 8 the main customers at the dump?

11:45:09 9 A. Correct.

11:45:10 10 Q. And by virtue of the fact that
11:45:14 11 Reynolds and Reynolds was not included, is it
11:45:14 12 fair to say that Reynolds and Reynolds was not
11:45:16 13 a main customer of the South Dayton Dump?

11:45:19 14 A. Correct.

11:45:19 15 Q. Now, you testified, also, in your
11:45:26 16 deposition, that Mr. Walsh wrote down a list of
11:45:29 17 companies you identified for him. Do you
11:45:31 18 recall that?

11:45:31 19 A. Yes.

11:45:32 20 Q. And you saw him write that on a
11:45:34 21 list of -- a piece of paper?

11:45:36 22 A. Correct.

11:45:37 23 MR. McCALL: Mr. Romine, I'm going to
11:45:39 24 ask that you produce a copy of that list to me,
11:45:41 25 along with any and all other interview notes, that

11:45:44 1 Mr. Walsh took during his interviews of Mr.
11:45:48 2 Grillot.

11:45:48 3 MR. ROMINE: I will take your request
11:45:50 4 under advisement.

11:45:52 5 BY MR. McCALL:

11:45:53 6 Q. Do you recall, speaking of other
11:45:56 7 notes, Mr. Grillot, Mr. Walsh taking other
11:45:58 8 notes during your discussions with him?

11:46:01 9 A. Yes.

11:46:02 10 Q. On how many occasions did he take
11:46:05 11 notes?

11:46:06 12 A. During our conversation.

11:46:07 13 Q. On how many times did you have
11:46:10 14 conversations with him in which you remember
11:46:12 15 him writing notes?

11:46:14 16 A. The one time.

11:46:18 17 Q. Well, let me try to clarify that,
11:46:21 18 because I asked you a moment ago if you recall
11:46:23 19 him taking notes on other occasions, other than
11:46:26 20 the first list that -- that you saw him write
11:46:29 21 down, and I understood you said yes. Was that
11:46:34 22 correct?

11:46:34 23 A. I'm confused.

11:46:37 24 Q. As -- as am I. Let's try to
11:46:40 25 clarify. You testified at your April 24, 2012,

11:46:47 1 deposition, that Mr. Walsh prepared a list of
11:46:50 2 the companies that you identified for him, is
11:46:54 3 that correct?

11:46:54 4 A. For himself, yes.

11:46:55 5 Q. And you saw him write that down?

11:46:58 6 A. Yes.

11:46:58 7 Q. And my question for you is, did
11:47:00 8 you see him take notes during any other
11:47:03 9 meetings you had with him?

11:47:04 10 A. No.

11:47:04 11 Q. Do you know whether he did or did
11:47:08 12 not take notes?

11:47:08 13 A. I don't know.

11:47:16 14 Q. Now, Mr. Grillot, do you recall
11:47:21 15 after your deposition on April 24th, 2012,
11:47:26 16 executing a series of declarations?

11:47:29 17 A. Pardon me?

11:47:30 18 Q. Do you recall signing a few
11:47:34 19 declarations after your deposition on
11:47:36 20 April 24th, 2012?

11:47:37 21 A. No.

11:47:38 22 Q. You don't recall that?

11:47:39 23 A. No.

11:47:49 24 Q. Is it your testimony, as you sit
11:47:51 25 here today, that you did not execute any

11:47:54 1 declarations after your April 24th, 2012,
11:47:57 2 deposition?

11:47:57 3 A. I don't understand declaration.

11:47:59 4 Q. Okay. Were you asked to sign a
11:48:02 5 statement about other customers of the South
11:48:06 6 Dayton Dump after your deposition on
11:48:07 7 April 24th, 2012?

11:48:09 8 A. No.

11:48:10 9 Q. You were not asked to sign any
11:48:11 10 statements?

11:48:11 11 A. No.

11:48:27 12 MR. COUGHLIN: Excuse me. May I
11:48:30 13 interject? Did you sign any statements?

11:48:30 14 THE WITNESS: Pardon me?

11:48:31 15 MR. COUGHLIN: Did you sign any
11:48:32 16 statements?

11:48:33 17 THE WITNESS: I don't remember. I'm
11:48:34 18 saying no at this particular time.

11:48:37 19 MR. COUGHLIN: Thank you.

11:48:57 20 BY MR. McCALL:

11:48:57 21 Q. I want to turn now to your
11:49:03 22 testimony yesterday about Reynolds and
11:49:06 23 Reynolds, and although you had not mentioned
11:49:09 24 Reynolds and Reynolds in your prior deposition,
11:49:12 25 you did talk about Reynolds and Reynolds in

11:49:15 1 response to questions you were asked by Mr.
11:49:18 2 Romine yesterday. Do you recall that?

11:49:19 3 A. Yes, I do.

11:49:20 4 Q. You told Mr. Romine that you did
11:49:26 5 not recall any Reynolds and Reynolds trucks at
11:49:30 6 the dump, is that correct?

11:49:31 7 A. Correct.

11:49:32 8 Q. And that was true and accurate
11:49:33 9 testimony?

11:49:34 10 A. Correct.

11:49:37 11 Q. You also told Mr. Romine that you
11:49:39 12 did not recall any of the drivers who allegedly
11:49:45 13 delivered waste from Reynolds and Reynolds to
11:49:48 14 the South Dayton Dump. Do you recall that?

11:49:50 15 A. Correct.

11:49:50 16 Q. And that was true and accurate
11:49:52 17 testimony?

11:49:52 18 A. Yes.

11:49:53 19 Q. You described various products
11:50:02 20 that you believed were delivered to the dump,
11:50:06 21 the South Dayton Dump by -- or waste, excuse
11:50:10 22 me. Let me rephrase that.

11:50:12 23 You described various categories
11:50:14 24 of waste that you believe were from Reynolds
11:50:17 25 and Reynolds that were disposed of at the South

11:50:20 1 Dayton Dump, the first of which was paper
11:50:20 2 shreds.

11:50:23 3 Can you describe that in a little
11:50:24 4 more detail, what the paper shreds are that
11:50:27 5 you're referring to?

11:50:28 6 A. More like office trash can, stuff
11:50:32 7 like that.

11:50:36 8 Q. When you say more like office
11:50:39 9 trash cans, are you referring to shredded paper
11:50:41 10 from an office trash can?

11:50:43 11 A. Some, yes.

11:50:45 12 Q. What else would fall in the
11:50:46 13 category of paper shred?

11:50:49 14 A. Bathroom stuff, but mostly paper.
11:50:59 15 Like sheets of paper like this (indicating)
11:51:01 16 and --

11:51:02 17 Q. Okay. And let me -- I asked a
11:51:05 18 terrible question, so let me try to ask a
11:51:07 19 better one.

11:51:08 20 When you referred to paper shreds
11:51:12 21 during your testimony that you believe came
11:51:13 22 from Reynolds and Reynolds, specifically what
11:51:15 23 are you talking about?

11:51:18 24 MR. ROMINE: Asked and answered.

11:51:22 25 THE WITNESS: I'm still a little

11:51:23 1 confused, but paper products that looked like
11:51:28 2 office things.

11:51:29 3 BY MR. McCALL:

11:51:29 4 Q. Okay. Could you tell what was
11:51:34 5 written on these shredded papers?

11:51:38 6 A. Well, that's how I know and why I
11:51:41 7 made the comment, because I remember being down
11:51:46 8 in the dump sitting on a couch reading stuff
11:51:48 9 and it was just office talking stuff, you know.

11:51:57 10 Q. You were reading the shredded
11:51:57 11 papers?

11:51:59 12 A. No, the papers that -- some of
11:52:00 13 them were together, you know. I don't remember
11:52:09 14 the detail, what they are, but, you know,
11:52:17 15 that's it.

11:52:18 16 Q. Well, let me try to be a little
11:52:20 17 bit more clear. I -- my question was, could
11:52:22 18 you see what was written on the shredded
11:52:25 19 paper?

11:52:26 20 A. No.

11:52:26 21 Q. You referred to other papers that
11:52:32 22 were not shredded. What did you read on those
11:52:35 23 papers? And I'm specifically talking about any
11:52:38 24 paper that you believe came from Reynolds and
11:52:40 25 Reynolds.

11:52:40 1 A. I was mostly looking for scrap
11:52:45 2 paper to take home to make -- write things on,
11:52:49 3 and I think the letterhead is what caught my
11:52:54 4 attention.

11:52:56 5 Q. Okay. Well, what's the letterhead
11:52:57 6 that you're referring to?

11:52:58 7 A. That would be Reynolds and
11:53:03 8 Reynolds.

11:53:03 9 Q. And what did this letterhead look
11:53:06 10 like?

11:53:06 11 A. It was just lettering, you know,
11:53:09 12 that I remember.

11:53:10 13 Q. You also referred to skids
11:53:30 14 yesterday among the list of -- of things that
11:53:33 15 you believe may have come from Reynolds and
11:53:36 16 Reynolds and been disposed of at the dump.

11:53:38 17 What specifically do you recall
11:53:39 18 about these skids?

11:53:43 19 A. I thought I mentioned that it was
11:53:45 20 just paper waste, but if I did, I don't
11:53:48 21 remember.

11:53:48 22 Q. So you don't remember any skids
11:53:49 23 coming from Reynolds and Reynolds?

11:53:51 24 A. No, I don't.

11:53:51 25 Q. Okay. What about boxes?

11:53:55 1 A. Yes.

11:53:56 2 Q. And can you describe for me the
11:53:59 3 boxes you observed that you believe may have
11:54:02 4 come from Reynolds and Reynolds for disposal?

11:54:05 5 Well, actually let me rephrase
11:54:07 6 that. Can you describe for me the boxes that
11:54:10 7 you believe came from Reynolds and Reynolds and
11:54:12 8 arrived at the South Dayton Dump?

11:54:16 9 A. They were just ordinary cardboard
11:54:19 10 boxes that had tape that some of the papers
11:54:25 11 were loose into it. It might be a -- some kind
11:54:31 12 of insulation to hold something in, but they
11:54:34 13 were brown boxes.

11:54:35 14 Q. And these were -- did you see any
11:54:42 15 writing on these brown boxes?

11:54:44 16 A. No.

11:54:51 17 Q. Now, you've testified you don't
11:54:56 18 recall any Reynolds and Reynolds trucks at the
11:55:01 19 South Dayton Dump.

11:55:02 20 MR. ROMINE: Asked and answered.

11:55:04 21 MR. McCALL: I've not asked a
11:55:05 22 question yet.

11:55:05 23 BY MR. McCALL:

11:55:05 24 Q. You've also testified that you
11:55:08 25 don't recall any drivers delivering Reynolds

11:55:13 1 and Reynolds material to the dump.

11:55:15 2 MR. ROMINE: Objection. That's not a
11:55:17 3 question.

11:55:17 4 BY MR. McCALL:

11:55:21 5 Q. My question for you, Mr. Grillot,
11:55:25 6 is the sole basis for your belief that Reynolds
11:55:29 7 and Reynolds waste was delivered to the South
11:55:33 8 Dayton Dump, the letterhead that you saw?

11:55:34 9 A. Correct.

11:55:56 10 Q. Now, Mr. Grillot, I want to ask
11:55:59 11 you a few questions about the legal troubles,
11:56:04 12 which I think you've touched on briefly today
11:56:08 13 as well as discussed at your prior deposition.

11:56:12 14 You testified at your prior
11:56:13 15 deposition that you were -- you had two prior
11:56:17 16 felony convictions, do you recall that?

11:56:18 17 MR. ROMINE: Asked and answered.

11:56:20 18 THE WITNESS: Correct.

11:56:25 19 MR. McCALL: And I will stipulate for
11:56:26 20 the record, I previously had not asked that
11:56:29 21 question.

11:56:38 22 BY MR. McCALL:

11:56:38 23 Q. Mr. Grillot, the first felony
11:56:41 24 conviction you mentioned was a -- related to
11:56:46 25 marijuana possession, is that correct?

11:56:47 1 A. Correct.

11:56:48 2 MR. ROMINE: Objection. Asked and
11:56:48 3 answered. Goes beyond the scope of direct. It's
11:56:51 4 against Judge Rice's order not to go back and
11:56:53 5 rehash former testimony.

11:56:55 6 BY MR. McCALL:

11:56:55 7 Q. Now, Mr. Grillot, you also
11:56:57 8 mentioned a 2003 domestic violence felony
11:57:02 9 conviction, is that correct?

11:57:03 10 A. Correct.

11:57:04 11 MR. ROMINE: Same objection.

11:57:30 12 MR. McCALL: I'd like to mark this as
11:57:32 13 Defense Exhibit 3.

11:57:32 14 (Thereupon, Defendants' Exhibit
11:57:32 15 Number 3, petition to enter a plea of guilty, was
11:57:53 16 marked for purposes of identification.)

11:57:53 17 BY MR. McCALL:

11:57:54 18 Q. Mr. Grillot, you've been handed a
11:57:57 19 document which we have marked as Defendants'
11:57:58 20 Exhibit 3. It's entitled petition to enter a
11:58:00 21 plea of guilty. It has a file date of
11:58:05 22 January 21st, 2004.

11:58:07 23 If you could turn to the last
11:58:13 24 page, there's a signature appearing in the top
11:58:16 25 third of the page. Is that your signature?

11:58:18 1 MR. ROMINE: Objection. This goes
11:58:21 2 beyond the scope of the direct and also it
11:58:24 3 violates Judge Rice's order not to rehash former
11:58:27 4 subject matter.

11:58:33 5 THE WITNESS: Yes.

11:58:33 6 BY MR. McCALL:

11:58:35 7 Q. And is that you're handwriting
11:58:37 8 directly above your signature where it's dated
11:58:39 9 the 21st day of January, 2004?

11:58:41 10 A. Yes.

11:58:42 11 MR. ROMINE: Same objection.

11:58:42 12 MR. COUGHLIN: Excuse me, could I
11:58:48 13 interject? Could you tell us the name of the
11:58:48 14 court and the case number, please?

11:58:51 15 MR. McCALL: Sure. I mean, we've
11:58:52 16 marked it as an exhibit, but I'll go ahead and
11:58:52 17 read it off. It's in the Court of Pleas -- excuse
11:58:52 18 me.

11:58:57 19 In the Common Pleas Court of Greene
11:58:58 20 County, Ohio. State of Ohio, plaintiff, versus
11:59:01 21 Edward R. Grillot, Sr., case Number 2004 CR 005.

11:59:11 22 MR. COUGHLIN: Thank you.

11:59:14 23 BY MR. McCALL:

11:59:14 24 Q. Now, Mr. Grillot, the indictment
11:59:20 25 for this offense states that you had previously

11:59:23 1 been convicted of domestic violence in Dayton
11:59:26 2 Municipal Court in Case Number 00 CRB 5302.

11:59:31 3 Do you recall that prior
11:59:32 4 conviction for domestic violence in Dayton
11:59:34 5 Municipal Court?

11:59:34 6 MR. ROMINE: Same objection.

11:59:35 7 THE WITNESS: Yes, I do.

11:59:36 8 BY MR. McCALL:

11:59:36 9 Q. When -- what do you recall about
11:59:37 10 that?

11:59:38 11 MR. ROMINE: Same objection.

11:59:44 12 THE WITNESS: What do I recall about
11:59:45 13 it?

11:59:45 14 BY MR. McCALL:

11:59:45 15 Q. Yes.

11:59:47 16 A. That I was arrested for domestic
11:59:51 17 violence.

11:59:51 18 Q. And who was -- who else was
11:59:54 19 involved in that domestic violence incident?

11:59:56 20 A. It would have been my wife at that
11:59:58 21 time.

11:59:58 22 Q. And who was your wife at that
12:00:00 23 time?

12:00:00 24 MR. ROMINE: Same objection.

12:00:01 25 THE WITNESS: Lisa Ann Grillot.

12:00:07 1 BY MR. McCALL:

12:00:10 2 Q. Do you also recall domestic
12:00:17 3 violence charges being filed against you in
12:00:19 4 2000 --

12:00:21 5 MR. ROMINE: Same objection.

12:00:23 6 BY MR. McCALL:

12:00:23 7 Q. -- involving your wife, Lisa A.
12:00:26 8 Grillot?

12:00:26 9 MR. ROMINE: Same objection.

12:00:26 10 THE WITNESS: Yes, I do.

12:00:47 11 MR. McCALL: I have no further
12:00:48 12 questions at this time. Thank you.

12:00:51 13 MR. HAUGHEY: What is that time -- go
12:00:56 14 off the record, please.

12:00:57 15 (Thereupon, an off-the-record
12:00:57 16 discussion was had.)

12:01:17 17 MR. HARBECK: I just want to go back
12:01:19 18 on the record and just reiterate that the request
12:01:19 19 he made for documents to you, which you'd take
12:01:24 20 under advisement, I'm assuming all counsel would
12:01:25 21 concur in that request, so if we could just -- if
12:01:28 22 there's an exchange, I want it be to public
12:01:32 23 knowledge going forward.

12:01:32 24 Let's just put it on the record just
12:01:34 25 so we've got it. Bill Harbeck. I just want to

12:01:39 1 also request, I think on my behalf and on behalf
12:01:43 2 of all other counsel here, that Mr. McCall asked
12:01:46 3 for documents related to the discussions with Bill
12:01:51 4 Walsh, that that request is made by all of us, and
12:01:54 5 I understand, David, you'll take it under
12:01:55 6 advisement.

12:01:56 7 MR. ROMINE: That is correct.

12:01:58 8 MR. HARBECK: Okay. Thank you.

12:02:01 9 MR. SHARETT: Hello. This is Anthony
12:02:02 10 Sharett on behalf of DP&L. I know I've got about
12:02:03 11 ten minutes of questions to ask.

12:02:04 12 I guess it would be nice to take,
12:02:06 13 before we break, a little bit of a roll call to
12:02:08 14 see how many other attorneys may have some
12:02:12 15 questions so I that can gauge what time I think we
12:02:15 16 might be finished today.

12:02:16 17 MR. HARBECK: Can we go off the
12:02:17 18 record for this so we don't --

12:02:18 19 MR. ROMINE: Yes.

12:02:18 20 (Thereupon, an off-the-record
21 discussion was had.)

22 (Thereupon, the proceedings were
23 adjourned for lunch.)

24 (Thereupon, the proceedings were
25 reconvened.)

1 CROSS-EXAMINATION

2 BY MR. MUSTO:

3 Q. Let's go ahead and start. Mr.

12:47:07 4 Grillot, my name is John Musto. I'm an

12:47:08 5 attorney for the City of Dayton, Ohio. I just

12:47:10 6 want to start off with -- I know you were

12:47:13 7 having some -- you weren't feeling well earlier

12:47:14 8 today. How do you feel right now?

12:47:14 9 A. Good.

12:47:16 10 Q. Are you able to truthfully and

12:47:17 11 accurately testify?

12:47:19 12 A. Yes, I am.

12:47:20 13 Q. Okay. Great. I'm going to cut to

12:47:23 14 the chase here, Mr. Grillot. Other than your

12:47:27 15 testimony yesterday that you believed that

12:47:31 16 vehicles were disposed of for the City of

12:47:34 17 Dayton at Doyle's Auto Salvage Yard at the

12:47:34 18 South Dayton Dump --

12:47:38 19 A. To my knowledge.

12:47:39 20 Q. -- do you have any other knowledge

12:47:41 21 of anything else, materials, waste, otherwise

12:47:45 22 that has been disposed of at the South Dayton

12:47:49 23 Dump on behalf of the City of Dayton?

12:47:51 24 A. Yes.

12:47:52 25 Q. And what is that?

12:47:53 1 A. A lot of blacktop material,
12:48:01 2 concrete, dirt, barrels. I think there was
12:48:17 3 some like guards that you see along the road
12:48:21 4 that's got telephone poles connected to them,
12:48:26 5 but --

12:48:26 6 Q. Guardrails?

12:48:27 7 A. -- like rails that keep you -- a
12:48:30 8 car from going over something. I think that's
12:48:33 9 it.

12:48:34 10 Q. So the entire list that you claim
12:48:38 11 that you have knowledge of that was disposed of
12:48:41 12 at the South Dayton Dump on behalf of the City
12:48:44 13 of Dayton is blacktop materials, concrete,
12:48:48 14 dirt, barrels, guardrails and abandoned
12:48:52 15 vehicles?

12:48:53 16 A. Yes.

12:48:53 17 Q. Is that it?

12:48:54 18 A. I think so.

12:48:55 19 Q. Okay. Let's start off with the
12:48:58 20 blacktop material. What is the basis of your
12:49:01 21 knowledge concerning the blacktop material?

12:49:05 22 A. That trucks from the City of
12:49:07 23 Dayton would come and dump down towards the
12:49:10 24 pit.

12:49:17 25 Q. And on -- was this on one occasion

12:49:21 1 or more than one occasion that you personally
12:49:24 2 witnessed?

12:49:24 3 A. Several occasions.

12:49:25 4 Q. More than five occasions?

12:49:27 5 A. Yes.

12:49:28 6 Q. More than ten occasions?

12:49:31 7 A. Yes.

12:49:31 8 Q. More than 15 occasions?

12:49:33 9 A. Yes.

12:49:34 10 Q. More than 20 occasions?

12:49:36 11 A. I don't know.

12:49:37 12 Q. And during what time period did
12:49:45 13 this occur?

12:49:50 14 A. We're still referring to the
12:49:52 15 blacktop, correct?

12:49:52 16 Q. Yes.

12:49:58 17 A. Okay. From around '68 to '70.

12:50:09 18 Q. Any other time period?

12:50:11 19 A. No. No. Am I speaking loud
12:50:19 20 enough down there?

12:50:20 21 MR. HARBECK: Yeah, you're doing
12:50:21 22 fine.

12:50:22 23 THE WITNESS: Okay.

12:50:22 24 BY MR. MUSTO:

12:50:22 25 Q. Now, on these 20 occasions when

12:50:26 1 you said the City of Dayton trucks came to drop
12:50:29 2 off blacktop material, where did they deposit
12:50:33 3 that from the site?

12:50:35 4 A. That would go down to the pit.

12:50:37 5 Q. And each time, were these marked
12:50:40 6 City of Dayton vehicles?

12:50:41 7 A. Yes.

12:50:41 8 Q. What color were they?

12:50:44 9 A. I believe yellow.

12:50:49 10 Q. Are you aware of any contract
12:50:51 11 between the City of Dayton and South Dayton
12:50:53 12 Dump for the disposal of this material?

12:50:55 13 A. Not to my knowledge.

12:50:57 14 Q. Did -- you mentioned a key to the
12:51:01 15 dump. To your knowledge, did the City of
12:51:03 16 Dayton have a key to the dump?

12:51:05 17 A. Not to my reco -- no.

12:51:07 18 Q. Do you have any idea where the
12:51:23 19 blacktop material came from?

12:51:26 20 A. No.

12:51:27 21 Q. No particular project, anything
12:51:29 22 like that?

12:51:35 23 A. I don't know.

12:51:36 24 Q. What time of day would these
12:51:39 25 deliveries be made that you witnessed?

12:51:41 1 A. During the day.

12:51:42 2 Q. Mornings? Afternoons?

12:51:44 3 A. Mostly in the mornings.

12:51:50 4 Q. And when you say blacktop

12:51:52 5 material, what specifically are you talking

12:51:54 6 about?

12:51:54 7 A. Pieces of material maybe about

12:52:00 8 that thick (indicating), broken in many pieces.

12:52:03 9 Q. Asphalt?

12:52:04 10 A. Yes, uh-huh.

12:52:05 11 Q. Do you have any written records of

12:52:12 12 this?

12:52:12 13 A. No.

12:52:13 14 Q. Okay. Have you ever seen any

12:52:15 15 written records about it?

12:52:16 16 A. No.

12:52:16 17 Q. Is there a reason that you never

12:52:20 18 mentioned this in your first deposition in April

12:52:23 19 of 2012?

12:52:25 20 A. Is there a reason?

12:52:26 21 Q. Yes.

12:52:28 22 A. It didn't -- didn't register at

12:52:31 23 the time.

12:52:31 24 Q. And in all of the conversations

12:52:33 25 you've had with the attorneys for the

12:52:35 1 plaintiff, the investigator for the plaintiff,
12:52:37 2 you never brought this up, did you?

12:52:40 3 A. No.

12:52:40 4 Q. Okay. And you've had quite a bit
12:52:46 5 of time to think about the South Dayton Dump,
12:52:48 6 correct?

12:52:49 7 A. Correct.

12:52:49 8 Q. And this is the first time, as we
12:52:52 9 sit here today, it's occurred to you that the
12:52:55 10 City of Dayton has dumped material there other
12:52:58 11 than salvaged vehicles?

12:53:00 12 A. No.

12:53:01 13 Q. What other times did it occur to
12:53:03 14 you?

12:53:04 15 A. I think it was after the
12:53:07 16 deposition in '12, because it brought back all
12:53:13 17 my memories, because it was -- I kept it kind
12:53:16 18 of behind me, and then when we went through
12:53:18 19 that deposition and a couple years after that,
12:53:21 20 I thought -- remembered other people that had
12:53:24 21 been at the dumpsite.

12:53:26 22 Q. But you never mentioned that to
12:53:28 23 anyone till -- until today right now, correct?

12:53:30 24 A. Correct. Well, no, I -- rephrase
12:53:32 25 the question, please?

12:53:33 1 Q. You never mentioned about the City
12:53:35 2 of Dayton dumping blacktop materials at the
12:53:38 3 South Dayton landfill before today, between the
12:53:40 4 time that you spoke with the plaintiffs'
12:53:44 5 attorney and investigator before the April,
12:53:46 6 2012, deposition, and today, you never
12:53:49 7 mentioned that to them, is that correct?

12:53:50 8 A. Yes, I did.

12:53:51 9 Q. Who?

12:53:52 10 A. Bill Walsh.

12:53:53 11 Q. And when was that?

12:53:54 12 A. I don't remember the month or the
12:53:57 13 year, but it was in the time frame between '12
12:54:01 14 and today.

12:54:11 15 Q. As far as the quantity of blacktop
12:54:13 16 material, can you tell me the quantity of
12:54:15 17 blacktop material that you say was dumped from
12:54:17 18 City of Dayton vehicles?

12:54:20 19 A. It was regular dump trucks, single
12:54:28 20 axle. I think -- I'm not sure of the yardage,
12:54:34 21 but it would be a full up -- hanging up from
12:54:37 22 the top.

12:54:44 23 Q. You can't estimate the yardage?

12:54:48 24 A. If I was making an assumption, I'd
12:54:51 25 say maybe 12. Between 12 and 20 yards.

12:54:54 1 Q. Total or per truck?

12:54:55 2 A. Per truck.

12:54:56 3 Q. And, again, the only time that you
12:55:06 4 personally witnessed this was between 1968 and
12:55:10 5 1970?

12:55:10 6 A. Correct.

12:55:21 7 Q. Did you fill out any slips for
12:55:23 8 this any time you witnessed any of these trucks
12:55:27 9 that came and dumped the blacktop material?

12:55:29 10 A. Not to my knowledge.

12:55:31 11 Q. Have you ever seen any slips for
12:55:32 12 this?

12:55:33 13 A. I've seen slips, but I don't know
12:55:36 14 whether it said anything about Dayton.

12:55:38 15 Q. Have you seen slips for the
12:55:41 16 blacktop material that you claim you saw
12:55:44 17 dumped --

12:55:44 18 A. No.

12:55:44 19 Q. -- by the City of Dayton?

12:55:51 20 A. No.

12:55:51 21 Q. Okay. And on each of these
12:55:55 22 occasions when you watched, did you actually
12:55:58 23 watch the material be dumped from the time the
12:56:00 24 truck came in or what were you doing on these
12:56:03 25 occasions?

12:56:03 1 A. At that -- at the time, I was
12:56:04 2 pretty much full-time on the dozer, and I would
12:56:08 3 direct them where I wanted the load so I could
12:56:11 4 push it over into the pit.

12:56:19 5 Q. Have we covered everything you
12:56:24 6 know and personally witnessed about blacktop
12:56:25 7 material that the City of Dayton you claim
12:56:27 8 dumped at the South Dayton Dump?

12:56:28 9 A. Yes.

12:56:28 10 Q. Okay. Let's talk about concrete.
12:56:33 11 Did you personally witness anyone from the City
12:56:36 12 of Dayton dumping concrete at South Dayton
12:56:39 13 Landfill?

12:56:39 14 A. Yes.

12:56:39 15 Q. Okay. On how many occasions?

12:56:41 16 A. It would pretty much repeat
12:56:45 17 what -- the concrete -- or the blacktop, so 15
12:56:49 18 times.

12:56:49 19 Q. Approximately 15 times. And each
12:56:57 20 of these times was -- involved a separate
12:57:00 21 truck?

12:57:02 22 A. Yes.

12:57:03 23 Q. And the only thing that was in the
12:57:06 24 truck that you could tell being dumped was
12:57:08 25 concrete?

12:57:08 1 A. Some dirt.

12:57:11 2 Q. Anything else?

12:57:16 3 A. Sometimes it would be like paving
12:57:21 4 blocks in mixed with them.

12:57:24 5 Q. And what would the paving blocks
12:57:27 6 be made of?

12:57:28 7 A. Do you want what I assume they
12:57:32 8 were or --

12:57:33 9 Q. Yes. What did you assume they
12:57:35 10 were made of?

12:57:35 11 A. They were underneath all the
12:57:36 12 streets in Dayton that were -- it was first --
12:57:40 13 maybe the second layer that was underneath the
12:57:44 14 blacktop and concrete in certain areas.

12:57:47 15 Q. What did you assume they were made
12:57:49 16 of?

12:57:49 17 A. That they were layers -- the
12:57:53 18 underlayment of some of the road.

12:57:54 19 Q. Concrete? Asphalt? Brick?

12:57:58 20 A. Well, like I said, the -- the
12:58:00 21 brick, I believe, was -- I think there was
12:58:01 22 dirt, brick, concrete and then asphalt or it
12:58:07 23 might have been asphalt, then concrete.

12:58:10 24 Q. What I'm trying to figure out is,
12:58:11 25 what do you believe the paving blocks were made

12:58:13 1 of that you saw --

12:58:15 2 A. Oh, okay. I don't know what they
12:58:19 3 make brick out, but like a regular house brick.

12:58:22 4 Q. Red brick?

12:58:23 5 A. Yeah. Um-hum.

12:58:24 6 Q. You can't be any more specific
12:58:27 7 than that?

12:58:29 8 A. They were solid. Approximately
12:58:30 9 four inches by 12 inches. Maybe four inches
12:58:37 10 deep or thick.

12:58:44 11 Q. Did you ever see any slips for any
12:58:46 12 of the concrete, paving blocks or dirt?

12:58:50 13 A. No.

12:58:50 14 Q. Okay. Do you have any other
12:58:58 15 information on the concrete paving blocks and
12:59:01 16 dirt, other than what you've told me?

12:59:05 17 A. Sometimes there would be metal
12:59:07 18 reinforcing rods connected to the concrete.

12:59:17 19 Q. Can you tell me what percentage of
12:59:19 20 the time there would be the metal reinforcing
12:59:22 21 rods there?

12:59:22 22 A. Twenty percent.

12:59:23 23 Q. If you had to estimate the
12:59:29 24 quantity and yards of concrete that you
12:59:31 25 personally witnessed dumped at the South Dayton

12:59:34 1 Landfill, what would you say?

12:59:36 2 A. In total?

12:59:36 3 Q. In total from the City of Dayton
12:59:39 4 trucks.

12:59:50 5 A. Maybe 300 yards.

12:59:58 6 Q. How many yards do you think the
13:00:00 7 truck could hold?

13:00:01 8 A. Well, that's what I was trying to
13:00:02 9 estimate. If a truck had, say, 12 -- I was
13:00:07 10 trying to estimate maybe ten to 12 yards, at
13:00:11 11 15, you're -- you know, I don't have -- I don't
13:00:12 12 have a calculator, but -- so what's ten --
13:00:20 13 300 -- what did I say?

13:00:21 14 Q. Three hundred, I believe.

13:00:23 15 A. How many yards did I say?

13:00:25 16 Q. In total, I thought you said 300.

13:00:28 17 A. Okay. Be close to that
13:00:31 18 guesstimate.

13:00:31 19 Q. Do you have any idea how many
13:00:32 20 yards the trucks could hold?

13:00:34 21 A. No, I'm not --

13:00:35 22 Q. Could it have been five yards a
13:00:37 23 truck?

13:00:37 24 A. I don't think so. I think it
13:00:39 25 would be more than that.

13:00:39 1 Q. Between five and ten?

13:00:42 2 A. More. Between ten -- I'm not
13:00:47 3 familiar on the single axle and --

13:00:53 4 Q. Were these the same trucks that
13:00:54 5 you said you saw deposit the -- the blacktop
13:01:01 6 material?

13:01:01 7 A. Correct.

13:01:01 8 Q. And, again, these are single axle
13:01:04 9 trucks?

13:01:05 10 A. Yeah.

13:01:05 11 Q. Can you be any more specific about
13:01:07 12 that, the type?

13:01:08 13 A. They were dump trucks, and, like I
13:01:15 14 said, I believe they were yellow.

13:01:19 15 Q. Did you notice any emblems on them
13:01:21 16 or logos?

13:01:24 17 A. I believe it said the City of
13:01:32 18 Dayton.

13:01:32 19 Q. Were you --

13:01:32 20 A. They were --

13:01:32 21 Q. Go ahead.

13:01:34 22 A. They were just located on the
13:01:35 23 door, you know.

13:01:43 24 Q. And where -- and, again, you said
13:01:45 25 these were dumped in the pit.

13:01:47 1 A. Correct.

13:01:51 2 Q. I'm going to go ahead -- what
13:01:53 3 exhibit number are we on now?

13:01:53 4 (Thereupon, Defendants' Exhibit
13:01:53 5 Number 4, South Dayton Dump and Landfill site map,
13:02:17 6 was marked for purposes of identification.)

13:02:17 7 BY MR. MUSTO:

13:02:17 8 Q. Mr. Grillot, I'm going to hand you
13:02:19 9 what was previously marked as Exhibit 2 in your
13:02:22 10 April, 2012, deposition. It's now currently
13:02:25 11 marked Defendants' Exhibit 4. Do you have that
13:02:29 12 in front of you?

13:02:31 13 A. Yes.

13:02:31 14 Q. Can you tell me what that is?

13:02:34 15 A. It's the map of the area of South
13:02:44 16 Dayton Dump -- or Broadway Sand and -- or
13:02:45 17 Broadway Dump and Broadway Sand and Gravel.

13:02:47 18 Q. Does that picture show the entire
13:02:49 19 area, Exhibit 4, that was the South Dayton
13:02:53 20 Landfill?

13:02:53 21 A. Correct.

13:02:53 22 Q. Okay. And could you show me where
13:02:57 23 the pit was where the concrete and the blacktop
13:03:02 24 material was deposited?

13:03:07 25 A. Be right -- this -- this isn't

13:03:20 1 right because the pond was more down -- this --
13:03:22 2 well, maybe not, but in this area right here
13:03:22 3 (indicating).

13:03:26 4 MR. MUSTO: Okay. So let the record
13:03:28 5 reflect he's pointing to an area that is circled,
13:03:33 6 it looks like black ink. It has pit written
13:03:38 7 there, and inside the circle is also a large
13:03:41 8 pond.

13:04:00 9 BY MR. MUSTO:

13:04:00 10 Q. Have we covered everything
13:04:02 11 involving the concrete, the paving blocks and
13:04:08 12 the dirt --

13:04:08 13 A. Correct.

13:04:09 14 Q. -- that you're aware of?

13:04:09 15 A. No, not the dirt. Well, if it was
13:04:12 16 mixed in with the other, yes.

13:04:14 17 Q. Okay. That brings us then to the
13:04:20 18 third category, dirt. Can you tell me what you
13:04:24 19 personally witnessed that you believe came from
13:04:28 20 the City of Dayton, that dirt that was
13:04:29 21 deposited at the South Dayton Landfill?

13:04:32 22 A. Yes. The dirt was deposited close
13:04:35 23 to the third level where -- so things could be
13:04:46 24 covered up. We used the virgin earth not mixed
13:04:50 25 with anything, it would go there so it could

13:04:54 1 cover the debris that needed to be --
13:05:00 2 eventually we'd pitch toward the pit.

13:05:02 3 Q. Was -- the dirt that you claim was
13:05:04 4 deposited at the South Dayton Landfill by the
13:05:06 5 City of Dayton, was it anything else but dirt?

13:05:11 6 Could you see any impurities or
13:05:12 7 anything in it?

13:05:14 8 A. There might be a few of those
13:05:15 9 bricks that I told you about. Some -- a little
13:05:23 10 bit of concrete. Maybe a little bit of
13:05:25 11 asphalt, but those particular -- if they
13:05:28 12 were -- it looked like pretty clear indication
13:05:31 13 they were good for, you know, covering then
13:05:35 14 we'd -- that's where it would go.

13:05:37 15 Q. You didn't notice anything that
13:05:40 16 you believed to be chemicals in there, anything
13:05:43 17 that you -- trash or anything in the dirt that
13:05:46 18 you're aware of?

13:05:49 19 A. I -- I mentioned, I think,
13:05:51 20 yesterday in my deposition, that I was only
13:05:53 21 allowed to push debris in the pit.

13:05:56 22 My Uncle Alcine -- because there
13:05:57 23 was a -- an incline going down into the pit, he
13:06:03 24 didn't want his dozer so close to the edge, so
13:06:05 25 I wasn't allow to do that, so --

13:06:07 1 Q. So is your answer to my question
13:06:09 2 no?

13:06:09 3 A. Yes.

13:06:09 4 Q. Okay. And about how much dirt do
13:06:14 5 you believe that you personally witnessed the
13:06:17 6 City of Dayton deposit in South Dayton
13:06:22 7 Landfill?

13:06:22 8 A. I think I remember -- I think
13:06:25 9 they're 30 yard dump trucks, now that I'm
13:06:27 10 thinking about it, and it's the same dump truck
13:06:31 11 we talked about previously, but they were full
13:06:35 12 dump trucks, loads.

13:06:39 13 Q. So how many full dump truck loads
13:06:42 14 of dirt do you claim the City of Dayton
13:06:44 15 deposited -- that you witnessed deposited at
13:06:47 16 the South Dayton Landfill?

13:06:48 17 A. Not near as many as the other
13:06:51 18 site. I'd probably say ten.

13:06:56 19 Q. And earlier you testified that you
13:06:58 20 thought that the single axle dump trucks the
13:07:01 21 city used could hold between ten and 12 yards
13:07:04 22 of material?

13:07:04 23 A. Um-hum.

13:07:05 24 Q. Is that correct?

13:07:06 25 A. Yes.

13:07:07 1 Q. Okay. Now you're not sure of
13:07:10 2 that?

13:07:12 3 A. Could you rephrase?

13:07:14 4 Q. Are -- you just said that you
13:07:16 5 thought they could hold 30 yards.

13:07:17 6 A. Yeah, I thought -- and I'm
13:07:20 7 debating whether -- in my mind, I'm trying to
13:07:23 8 think if -- I don't know what -- a tandem, but
13:07:26 9 there's three sets of tires, and it might have
13:07:30 10 been what they call a dually truck where
13:07:32 11 there's two -- and then the bigger trucks that
13:07:35 12 came later, I think as they were purchased
13:07:37 13 were -- I don't know what they -- four -- the
13:07:41 14 set of tires, I'm not sure.

13:07:42 15 Q. So as we sit here today, you don't
13:07:44 16 know how much -- how many yards of material the
13:07:46 17 single axle dump trucks would hold?

13:07:48 18 A. No.

13:07:49 19 Q. Okay. But you believe
13:07:51 20 approximately ten single axle dump truck loads
13:07:54 21 of dirt was deposited at the South Dayton
13:07:57 22 Landfill by the City of Dayton, correct?

13:07:58 23 A. Correct.

13:07:59 24 Q. And that was in the 1968 to 1970
13:08:04 25 time period as well?

13:08:04 1 A. Um-hum.

13:08:05 2 Q. Correct?

13:08:05 3 A. Yes.

13:08:06 4 Q. And you have no knowledge of any

13:08:08 5 other dirt in any other time period from the

13:08:10 6 City of Dayton being dumped at the South Dayton

13:08:12 7 Landfill, correct?

13:08:13 8 A. No.

13:08:13 9 Q. All right. That brings us to

13:08:24 10 barrels.

13:08:26 11 A. Yes.

13:08:26 12 Q. Could you tell me about the

13:08:30 13 barrels?

13:08:32 14 A. The barrels were 55-gallon drums

13:08:36 15 that had their lids cut off possibly from

13:08:40 16 what -- you know, I mentioned earlier in

13:08:43 17 yesterday's deposition they were painted orange

13:08:53 18 and they'd be very bent up.

13:08:55 19 Q. Okay. The -- the 55-gallon orange

13:09:00 20 drums, did you witness them come to the

13:09:00 21 landfill?

13:09:04 22 A. Yes.

13:09:04 23 Q. Okay. On how many occasions?

13:09:09 24 A. At that particular time, two or

13:09:10 25 three.

13:09:10 1 Q. Two, three separate occasions?

13:09:12 2 A. (No response.)

3 Q. And when -- what time period was
4 it?

5 (Thereupon, the court reporter
6 interrupted the proceedings.)

7 BY MR. MUSTO:

13:09:36 8 Q. I'm sorry. How many times did you
13:09:38 9 witness the 55-gallon orange drums, painted
13:09:43 10 orange drums, come to the South Dayton
13:09:43 11 Landfill?

13:09:45 12 A. My answer was maybe two or three
13:09:48 13 barrels, okay?

13:09:49 14 Q. Oh, you only saw two or three
13:09:49 15 barrels be deposited?

13:09:49 16 A. Right, um-hum.

13:09:49 17 Q. Okay. Total?

13:09:54 18 A. When you said occasions, I --
13:09:55 19 yeah, total.

13:09:56 20 Q. So one on each occasion?

13:10:07 21 A. They didn't come, you know, very
13:10:09 22 often, because -- they just didn't come very
13:10:16 23 often, no.

13:10:17 24 Q. And on each occasion, how did --
13:10:20 25 what did you see when you saw them delivered?

13:10:22 1 What kind of truck delivered them?

13:10:24 2 A. They were mixed in with the dump
13:10:27 3 truck, concrete or the asphalt.

13:10:35 4 Q. And they were metal barrels?

13:10:39 5 A. Yes, um-hum. Metal drums.

13:10:41 6 Q. And they were empty, correct?

13:10:42 7 A. Yes.

13:10:43 8 Q. And how were those disposed of, if
13:10:49 9 you know?

13:10:51 10 A. They were drug off to the side and
13:10:54 11 picked up for salvage.

13:11:04 12 Q. So did they leave the landfill
13:11:06 13 then? Did someone take them off the landfill?

13:11:08 14 A. Yes, um-hum.

13:11:09 15 Q. Okay. So you're not aware of any
13:11:13 16 orange barrels or drums from the City of Dayton
13:11:16 17 being actually buried at the South Dayton Dump,
13:11:20 18 correct?

13:11:20 19 A. No.

13:11:21 20 Q. Have we covered everything on the
13:11:30 21 barrels?

13:11:30 22 A. Yes, um-hum.

13:11:32 23 Q. Let's talk about guardrails.

13:11:40 24 A. Do you want me to describe them or
13:11:42 25 just tell you how many times?

13:11:43 1 Q. Just tell me about the guardrails
13:11:44 2 that you believe the City of Dayton deposited
13:11:44 3 at South Dayton Dump.

13:11:47 4 A. They were pretty bent up. They
13:11:51 5 were steel. Painted like a silver-ish color.
13:11:54 6 Had holes. Sometimes bolts would be and
13:11:58 7 sometimes maybe a short piece of telephone pole
13:12:02 8 connected to them, and I just saw maybe one
13:12:09 9 guardrail the whole time that I was there.

13:12:16 10 Q. And did you see that guardrail
13:12:17 11 arrive at the site?

13:12:19 12 A. Yes, um-hum.

13:12:20 13 Q. And what would it arrive in?

13:12:23 14 A. The same dump trucks.

13:12:25 15 Q. In one of the loads that brought
13:12:30 16 the dirt or the concrete?

13:12:31 17 A. Correct.

13:12:32 18 Q. Okay.

13:12:33 19 A. Um-hum.

13:12:33 20 Q. And what happened to that
13:12:36 21 guardrail?

13:12:38 22 A. I had to get off the Dumpster and
13:12:40 23 shut off and then go and drag it off to the
13:12:43 24 side so the -- it could be used for salvage.

13:12:49 25 Q. So was that then taken off the

13:12:51 1 South Dayton Dump site?

13:12:52 2 A. Yes.

13:12:52 3 Q. It was not disposed of there,
13:12:54 4 correct?

13:12:54 5 A. No.

13:12:55 6 Q. Okay. Have we covered everything
13:13:03 7 that you have any knowledge of that you believe
13:13:06 8 the City of Dayton disposed of at the South
13:13:09 9 Dayton Landfill other than the salvaged
13:13:12 10 automobiles?

13:13:12 11 A. Correct.

13:13:13 12 Q. All right. You had testified
13:13:21 13 before that you had worked for Doyle Roberson?

13:13:29 14 A. Right.

13:13:29 15 Q. Is that correct?

13:13:29 16 A. Yes.

13:13:31 17 Q. Okay. And I believe the testimony
13:13:33 18 was that you worked for him for a few months
13:13:36 19 around your 16th birthday?

13:13:39 20 A. Yes.

13:13:41 21 Q. Other than working for Doyle --
13:13:44 22 let me rephrase the question. Are you aware of
13:13:47 23 the City of Dayton salvaging or disposing of
13:13:49 24 any vehicles at the South Dayton Dump other
13:13:52 25 than through Doyle Roberson?

13:13:55 1 A. Other than through Doyle Roberson?

13:13:57 2 Q. Yes.

13:13:58 3 A. No.

13:13:58 4 Q. Okay. Just so I'm clear,
13:14:07 5 approximately how many months did you work for
13:14:10 6 Doyle Roberson?

13:14:12 7 A. Approximately a month, maybe two
13:14:18 8 months.

13:14:18 9 Q. And you said that was around your
13:14:22 10 16th birthday?

13:14:23 11 A. Yes.

13:14:23 12 Q. So that would be somewhere 1968,
13:14:26 13 1969?

13:14:27 14 A. Correct, because that's when I
13:14:31 15 finished school and Doyle signed my -- I had to
13:14:33 16 have a release form and Doyle -- and signed it
13:14:35 17 so I could quit school, so --

13:14:38 18 Q. So you were born in November of
13:14:41 19 1952?

13:14:41 20 A. Um-hum.

13:14:43 21 Q. So you would have turned 16 in
13:14:46 22 November of 1968, correct?

13:14:47 23 A. Yeah.

13:14:47 24 Q. Would you have worked with Doyle
13:14:51 25 immediately when you turned 16 or can you tell

13:14:53 1 me the time of year that it would have been
13:14:55 2 that you worked for Doyle?

13:14:57 3 A. I think it was the latter part of
13:14:59 4 winter, beginning of spring.

13:15:02 5 Q. Sometime around February, March?

13:15:04 6 A. Yeah.

13:15:04 7 Q. So that would be 1969?

13:15:09 8 A. Yeah.

13:15:09 9 Q. Other than those two months in
13:15:16 10 around 1969, did you ever perform any services
13:15:20 11 or do any work involving the auto salvage
13:15:24 12 yard or Doyle Roberson at the South Dayton
13:15:27 13 Landfill?

13:15:27 14 A. No.

13:15:27 15 Q. So your only knowledge, personal
13:15:32 16 knowledge, that you have about Doyle Roberson's
13:15:35 17 auto salvage yard comes from those two months
13:15:38 18 that you worked there, correct?

13:15:39 19 A. Correct, um-hum.

13:15:40 20 Q. All right. Let's talk about --
13:15:53 21 did he just call it Doyle's Auto Parts or what
13:15:55 22 was the name of it?

13:15:58 23 A. Doyle's Auto Parts.

13:15:58 24 Q. Let's talk about the business that
13:16:00 25 he had there. Could you describe to me

13:16:01 1 generally what the business involved?

13:16:05 2 A. It was a -- a salvage yard for
13:16:11 3 vehicles, which would then have been turned
13:16:16 4 into a salvage yard where parts would be taken
13:16:19 5 off of the vehicles as they came in, and then
13:16:24 6 he sold some new auto parts.

13:16:30 7 Then he would empty the fluids out
13:16:37 8 of them and then burn them and then they would
13:16:39 9 be picked up for salvage.

13:16:42 10 Q. Okay. Let me go over the
13:16:47 11 categories and you tell me if there's any other
13:16:49 12 business that Mr. Roberson did at the salvage
13:16:51 13 yard, okay?

13:16:52 14 A. Okay.

13:16:53 15 Q. You said he took in old vehicles,
13:16:56 16 correct?

13:16:56 17 A. Correct.

13:16:57 18 Q. He sold new auto parts?

13:16:59 19 A. Yes.

13:17:00 20 Q. He allowed people to come in and
13:17:02 21 salvage parts from the vehicles that were
13:17:06 22 brought to his yard, correct?

13:17:08 23 A. That's not correct.

13:17:09 24 Q. Okay. Correct me. What --

13:17:12 25 A. He would send -- he had hired

13:17:13 1 several gentlemen to go out and take the parts
13:17:16 2 off.

13:17:17 3 Q. Okay. So someone would come and
13:17:19 4 say I need this part for my car, and then one
13:17:22 5 of his employees would go out there and take
13:17:25 6 the part off?

13:17:25 7 A. Right. Correct.

13:17:29 8 Q. So let's go back to my list. He
13:17:29 9 would take in old vehicles, correct?

13:17:30 10 A. Yes.

13:17:30 11 Q. He would salvage parts off those
13:17:34 12 vehicles?

13:17:34 13 A. Correct.

13:17:35 14 Q. He would sell new auto parts?

13:17:38 15 A. Correct.

13:17:38 16 Q. And then he would dispose of the
13:17:44 17 vehicles by emptying the fluids out and burning
13:17:48 18 them?

13:17:48 19 A. Correct.

13:17:48 20 Q. Anything else that he did on that
13:17:51 21 property?

13:17:52 22 A. I mentioned they were then
13:17:54 23 scrapped.

13:17:56 24 Q. Okay. And when you say they were
13:17:59 25 scrapped, then would they be taken to a

13:18:02 1 different location or tell me about that?

13:18:13 2 A. I believe that they went to
13:18:17 3 Franklin Iron -- I mean -- yeah, Franklin Iron
13:18:23 4 and Metal.

13:18:23 5 Q. And when you say the scrap,
13:18:25 6 someone from Franklin Iron and Metal would come
13:18:26 7 and take them off the dumpsite?

13:18:29 8 A. No, he would -- he would load like
13:18:34 9 several onto a flatbed. He tried flattening
13:18:37 10 them as much as he could. They didn't have a
13:18:37 11 crusher at that time.

13:18:37 12 And he'd flatten as many as he
13:18:40 13 could and then stack them, chain them and send
13:18:42 14 them off to -- to be salvaged.

13:18:46 15 Q. Have we covered everything that
13:18:50 16 Mr. Roberson's Doyle Auto Parts did at the
13:18:55 17 South Dayton Landfill?

13:18:55 18 A. Yes.

13:18:56 19 Q. Is there anything else that they
13:19:00 20 did as part of his business?

13:19:01 21 A. That he did as a operation?

13:19:02 22 Q. Yeah, as part of Doyle's Auto
13:19:03 23 Parts.

13:19:03 24 A. Yes, that was it.

13:19:04 25 Q. Okay. What did you do -- tell me

13:19:09 1 the jobs that you performed during the two
13:19:11 2 months that you worked there.

13:19:12 3 A. I did office work.

13:19:18 4 Q. Anything else?

13:19:22 5 A. Sometimes I'd run out to see if
13:19:25 6 they -- if he had the certain vehicle that the
13:19:27 7 individual needed and see if the -- the car was
13:19:33 8 still there or whatever.

13:19:36 9 Q. Anything else?

13:19:37 10 A. No.

13:19:38 11 Q. Were you involved in emptying
13:19:41 12 fluids from the vehicles?

13:19:43 13 A. No.

13:19:44 14 Q. Were you involved in burning the
13:19:46 15 vehicles?

13:19:46 16 A. No.

13:19:47 17 Q. Were you involved in any fashion
13:19:49 18 in assisting the vehicles once burned to be
13:19:54 19 loaded up and taking them to Franklin Iron and
13:19:54 20 Metal?

13:19:57 21 A. No.

13:19:57 22 Q. Let's talk about the office work
13:20:03 23 that you did. Tell me about it.

13:20:07 24 A. I was to take the slips that came
13:20:12 25 in with the tow truck driver, they were like

13:20:17 1 cards, describing the vehicle and maybe the VIN
13:20:20 2 number on it.

13:20:21 3 Then I would have to take piles of
13:20:26 4 either the yellow title or the original
13:20:30 5 duplicate and staple it onto the cards.

13:20:39 6 Q. Anything else that you did?

13:20:41 7 A. No.

13:20:42 8 Q. What was on these slips?

13:20:50 9 A. I mentioned that -- the
13:20:52 10 description of the vehicle, color of the
13:20:55 11 vehicle, the mileage, the VIN number, and what
13:20:59 12 make and model.

13:21:00 13 Q. Anything else?

13:21:01 14 A. No.

13:21:02 15 Q. And then where -- you would get
13:21:12 16 the slips directly from the drivers as they
13:21:14 17 brought the cars in?

13:21:16 18 A. I didn't.

13:21:17 19 Q. Who did?

13:21:19 20 A. They would be -- there was a --
13:21:23 21 like a slot in the door and they would be
13:21:29 22 dropped there and then Doyle would get them in
13:21:32 23 the morning and go over them and then he'd hand
13:21:35 24 them to me.

13:21:36 25 Q. Okay. So that explains how you

13:21:40 1 got the slips. How did you get the yellow
13:21:43 2 title, original or duplicate?

13:21:46 3 A. Well, between the time before it
13:21:53 4 was handed to me, I -- I think he made phone
13:21:57 5 calls or -- or sent in the slips or duplicates
13:22:00 6 or whatever to -- I don't know where.

13:22:05 7 Q. So you weren't involved in getting
13:22:07 8 the yellow slips and the titles, correct?

13:22:08 9 A. No. No.

13:22:09 10 Q. And so you never even saw -- did
13:22:18 11 you even see the cars come in?

13:22:19 12 A. On -- occasionally, yes.

13:22:21 13 Q. But most of the time you were in
13:22:22 14 the office, correct?

13:22:24 15 A. Correct.

13:22:25 16 Q. Did the office have windows that
13:22:28 17 you would look out to see the vehicles come
13:22:29 18 in?

13:22:29 19 A. Oh, yeah. Um-hum.

13:22:32 20 Q. So the only thing that you would
13:22:41 21 do then would be just to match up the slip with
13:22:44 22 the title and staple it?

13:22:46 23 A. Um-hum.

13:22:46 24 Q. Is that correct?

13:22:47 25 A. Yes.

13:22:47 1 Q. All right. In that time period,
13:22:57 2 the two months that you worked for Doyle's Auto
13:23:03 3 Parts, did you ever see a City of Dayton
13:23:05 4 vehicle tow in another vehicle?

13:23:09 5 A. No.

13:23:15 6 Q. Did you ever see tow companies
13:23:19 7 bring vehicles in?

13:23:20 8 A. Yes.

13:23:20 9 Q. Can you remember the names of any
13:23:23 10 of the tow companies?

13:23:25 11 A. The one I remember mostly was
13:23:36 12 Sandy's Towing Company.

13:23:36 13 Q. Okay. Any other tow companies
13:23:39 14 that you can recall towing in vehicles to
13:23:43 15 Doyle's Auto Parts?

13:23:47 16 A. Sometimes I saw like a Shell sign
13:23:50 17 or Marathon.

13:24:00 18 Q. As far as the titles, would you
13:24:05 19 ever read the titles other than just to get the
13:24:09 20 information to match it with the slip?

13:24:15 21 A. No.

13:24:15 22 Q. So the only thing you were
13:24:18 23 looking -- or what exactly were you looking for
13:24:22 24 on the title then?

13:24:24 25 A. Make, model, and the VIN number

13:24:26 1 had to match up to the slip.

13:24:28 2 Q. Those are the only things that you
13:24:30 3 were looking for on the title, correct?

13:24:32 4 A. Correct.

13:24:32 5 Q. You mentioned that the vehicles
13:24:44 6 came in to be salvaged. What sources -- he had
13:24:51 7 tow trucks that would bring them, correct?

13:24:51 8 A. Correct.

13:24:53 9 Q. And would private citizens ever
13:24:55 10 drive vehicles in?

13:24:58 11 A. Pardon me?

13:24:58 12 Q. Would private citizens -- did
13:25:00 13 anyone ever drive in a vehicle to be salvaged?

13:25:03 14 A. Oh, yeah. Um-hum.

13:25:03 15 Q. Okay. And they just -- but you
13:25:04 16 wouldn't deal with that person --

13:25:05 17 A. No.

13:25:06 18 Q. -- Doyle would, correct?

13:25:07 19 A. Yeah.

13:25:08 20 Q. Okay. Who all worked at Doyle's
13:25:11 21 Auto Parts while you worked there in the two
13:25:13 22 month time? Can you tell me the number of
13:25:15 23 employees he had?

13:25:16 24 A. Number; around four or six.

13:25:20 25 Q. Four to six?

13:25:21 1 A. Um-hum.

13:25:22 2 Q. Is that including you?

13:25:25 3 A. No.

13:25:26 4 Q. So it would be five to seven then,
13:25:29 5 including you?

13:25:30 6 A. Yeah.

13:25:33 7 Q. And you described your job to me.
13:25:35 8 What were the other jobs?

13:25:38 9 A. The other jobs?

13:25:39 10 Q. At Doyle's Auto Parts. What did
13:25:42 11 those other four to six people do?

13:25:46 12 A. Two of them were allotted behind
13:25:46 13 the counter to help customers come in to
13:25:50 14 purchase parts, and the other four would, if
13:25:54 15 they were all together, were sent out to take
13:25:57 16 the parts off.

13:26:11 17 Q. Once you matched the slips with
13:26:14 18 the title, what did you do with them?

13:26:17 19 A. Put them in -- there was two bins
13:26:20 20 that I would put them in.

13:26:22 21 Q. Were there any names on the bins
13:26:24 22 or purpose for having two separate bins?

13:26:26 23 A. Well, like I mentioned a few
13:26:28 24 minutes ago, if it had a white title, it went
13:26:32 25 in the white pile. If it had a yellow title,

13:26:35 1 it went in the yellow -- yellow pile.

13:26:37 2 Q. Do you know what the difference,
13:26:39 3 other than the color, was between the white
13:26:41 4 title and the yellow title?

13:26:42 5 A. Yes, the white was one that had --
13:26:46 6 what would I call it, a lien or a bank -- you
13:26:51 7 know, like somebody got a loan out, they kept
13:26:54 8 the -- the original title.

13:26:56 9 So we'd have to send it to
13:26:58 10 whatever bank it was and then get, you know,
13:27:03 11 the yellow -- yellow thing.

13:27:04 12 It had to have a yellow title in
13:27:08 13 order to be any shape, way or form picked on,
13:27:13 14 I'll say.

13:27:14 15 Q. Other than putting it in the white
13:27:17 16 bin or the yellow bin, did you have anything
13:27:18 17 else other to do with the title or the slip?

13:27:22 18 A. No.

13:27:26 19 Q. Okay. Now, you mentioned in your
13:27:27 20 testimony previously that you'd get the cars
13:27:30 21 coming in, correct?

13:27:32 22 A. Correct.

13:27:33 23 Q. And then at some point in time,
13:27:35 24 they'd be on the lot for a certain period of
13:27:38 25 time and then they'd be salvaged by having them

13:27:41 1 emptied, burned and then they'd go to Franklin
13:27:45 2 Iron and Metal, correct?

13:27:45 3 A. Correct.

13:27:45 4 Q. Okay. How long would it be
13:27:47 5 between the time that a car came in to the time
13:27:51 6 that they would be salvaged in that fashion?

13:27:54 7 A. I think they were given 30 days or
13:27:57 8 90 days, one of the two. I can't remember.

13:27:59 9 Q. And as we sit here today, you have
13:28:05 10 no recollection whether it was 30 or 90 days,
13:28:07 11 correct?

13:28:07 12 A. No.

13:28:08 13 Q. Is that correct?

13:28:09 14 A. Correct.

13:28:10 15 Q. All right. And the vehicles that
13:28:37 16 would come in by tow truck or private citizen
13:28:41 17 to Doyle's salvage yard, sometimes the entire
13:28:46 18 vehicle would then be purchased and go out,
13:28:48 19 correct?

13:28:50 20 A. Not to my recollection.

13:28:52 21 Q. Okay. That could happen, you
13:28:54 22 just -- in the two months you were there, you
13:28:58 23 just don't recall it happening, correct?

13:29:00 24 A. It could happen.

13:29:05 25 Q. And you weren't involved in

13:29:17 1 interacting with people that brought the cars
13:29:19 2 in, correct?

13:29:20 3 MR. ROMINE: Asked and answered.

13:29:22 4 THE WITNESS: No.

13:29:24 5 BY MR. MUSTO:

13:29:24 6 Q. So you have no personal knowledge
13:29:26 7 where any particular vehicle came from that was
13:29:29 8 brought to Doyle's Auto Parts, correct?

13:29:32 9 A. Correct.

13:29:35 10 Q. And you can't say that -- in
13:29:39 11 the two months that you were there that any
13:29:41 12 vehicle was brought by the City of Dayton,
13:29:44 13 correct, because you have no personal knowledge
13:29:46 14 of it?

13:29:52 15 A. I think on the slip that I would
13:29:59 16 staple to the titles had the location it was
13:30:02 17 picked up at.

13:30:05 18 Q. And what would that say?

13:30:06 19 A. Well, it would say Wyoming Street
13:30:12 20 or Second and Perry.

13:30:18 21 Q. But that wasn't something that you
13:30:19 22 were specifically looking for when you looked
13:30:21 23 at the slips, correct?

13:30:22 24 A. No.

13:30:22 25 Q. The only thing that you were

13:30:24 1 looking for was to match the model and make of
13:30:26 2 the vehicle with the title, correct, and the
13:30:30 3 VIN number?

13:30:30 4 MR. ROMINE: Asked and answered.

13:30:33 5 THE WITNESS: And the VIN number.

13:30:37 6 BY MR. MUSTO:

13:30:42 7 Q. Okay. Do you know how many cars
13:30:44 8 were salvaged during the time period you were
13:30:48 9 at Doyle's Auto Parts?

13:30:50 10 And when I'm talking about
13:30:51 11 salvaged was, meaning that the fluids were
13:30:53 12 leaked out and that it was burned?

13:30:55 13 A. You want a guesstimate?

13:30:58 14 Q. Yes.

13:30:59 15 A. A couple hundred.

13:31:06 16 Q. Do you have any personal knowledge
13:31:09 17 concerning where those vehicles came from?

13:31:14 18 A. Personal knowledge?

13:31:15 19 Q. Yes.

13:31:16 20 A. I just mentioned that -- on that
13:31:18 21 slip would have, but no one would tell me, no.

13:31:22 22 Q. You have no personal knowledge of
13:31:24 23 where those vehicles came from, correct?

13:31:26 24 A. No. Correct.

13:31:26 25 Q. All right. How big -- how much

13:31:41 1 area did Doyle's Auto Parts take up?

13:31:46 2 A. In those years?

13:31:47 3 Q. Yes, the time that you were there,
13:31:49 4 because that's the only time you have any
13:31:51 5 knowledge about it, correct?

13:31:51 6 A. No.

13:31:53 7 Q. Okay.

13:31:54 8 A. No.

13:31:54 9 Q. Well, let's go back. The time
13:31:56 10 that you were there, working there, how large
13:31:58 11 was Doyle's Auto Parts?

13:32:00 12 A. I would say it engulfed a third of
13:32:06 13 the landfill area.

13:32:07 14 Q. I'm going to hand you back what's
13:32:15 15 been marked as Plaintiffs' Exhibit 4.

13:32:17 16 A. Excuse me. Could I go to the
13:32:19 17 bathroom?

13:32:21 18 Q. Oh, sure. Go ahead.

13:32:22 19 MR. MUSTO: We'll go off.

13:32:23 20 (Pause in proceedings.)

13:36:43 21 MR. MUSTO: Back on the record.

13:36:43 22 BY MR. MUSTO:

13:36:47 23 Q. Mr. Grillot, what is the basis of
13:36:49 24 your belief that the City of Dayton deposited
13:36:55 25 vehicles at the South Dayton Dump?

13:36:59 1 A. From the -- the slips.

13:37:02 2 Q. Anything else?

13:37:06 3 A. No. Well, may I say that it said
13:37:14 4 Dayton Police Department. I don't know if
13:37:14 5 that -- I guess that's the City of Dayton,
13:37:17 6 so --

13:37:18 7 Q. What said Dayton Police
13:37:19 8 Department?

13:37:19 9 A. The slips.

13:37:20 10 Q. Anything else?

13:37:34 11 A. No.

13:37:34 12 Q. As we sit here today -- and,
13:37:43 13 again, you said when you were looking at the
13:37:45 14 slips, you weren't paying attention. The only
13:37:47 15 things that you were paying attention to were
13:37:49 16 the make, model and VIN number of the slip,
13:37:51 17 correct?

13:37:52 18 A. Correct, um-hum.

13:37:53 19 Q. You weren't specifically looking
13:37:55 20 for where they came from, correct?

13:37:57 21 A. No, because all the slips would
13:37:59 22 come under the heading of the Dayton Police
13:38:02 23 Department.

13:38:02 24 Q. Every slip that came into you?

13:38:05 25 A. Um-hum.

13:38:06 1 Q. You testified yesterday that you
13:38:08 2 got vehicles from Kettering, Oakwood and other
13:38:13 3 municipalities, right?

13:38:13 4 A. Right, but they -- I don't -- I
13:38:19 5 don't remember how at this particular time. My
13:38:22 6 recollection is most all of them came from the
13:38:25 7 Dayton Police Department.

13:38:31 8 Q. What specifically would the slip
13:38:33 9 say?

13:38:34 10 A. Well, the heading with black
13:38:37 11 letters at the very top of it would say Dayton
13:38:40 12 Police Department, small letters. Then it
13:38:42 13 would have lines with make, model, serial
13:38:46 14 number, VIN number. Did I say color? Color.

13:38:53 15 Then it had like location, and
13:38:56 16 then it would give the location, and I think
13:39:02 17 it -- if it didn't have the police officer's
13:39:06 18 name, it would just have a signature on it.

13:39:13 19 Oh, there was a time, the time
13:39:15 20 that -- that it was either picked up or
13:39:18 21 delivered to Doyle's. I can't -- I don't know,
13:39:24 22 and the date, the date -- the date was up at
13:39:29 23 the upper right-hand corner.

13:39:30 24 Q. You said the only slips that you
13:39:41 25 ever dealt with said City of Dayton on them?

13:39:43 1 A. Yes, um-hum.

13:39:44 2 Q. And if there were slips from any
13:39:53 3 other municipalities or government agencies,
13:39:55 4 you just don't recall them or you never
13:39:58 5 received any?

13:39:58 6 A. Well, some of them that I got just
13:40:01 7 had the yellow or -- yellow duplicate, and I
13:40:08 8 don't remember how I made a distinction what to
13:40:11 9 do with it.

13:40:11 10 Q. At this time, was Doyle's the only
13:40:21 11 auto salvage yard in the Dayton area?

13:40:27 12 A. I don't know.

13:40:32 13 Q. There could have been others?

13:40:34 14 A. Could have been, but I think I
13:40:39 15 believe Doyle saying he had a contract with
13:40:43 16 Dayton.

13:40:44 17 Q. Did you ever see the contract?

13:40:45 18 A. No.

13:40:46 19 Q. Do you know, was Mr. -- was Doyle
13:40:49 20 paid anything by the City of Dayton for taking
13:40:51 21 these vehicles?

13:40:53 22 A. I don't know.

13:40:53 23 Q. And you said you never saw a
13:40:56 24 Dayton pickup truck or tow truck bring in any
13:40:59 25 of these vehicles, correct?

13:41:00 1 A. No.

13:41:00 2 Q. So the sole basis for your belief
13:41:03 3 is a slip that had Dayton Police Department on
13:41:06 4 the top, correct?

13:41:07 5 A. Correct, um-hum.

13:41:08 6 Q. You said there were approximately
13:41:15 7 300 vehicles that --

13:41:16 8 A. Two hundred.

13:41:17 9 Q. Two hundred vehicles that were
13:41:19 10 burned, had the contents drained from them and
13:41:23 11 salvaged in the two months that you were at --

13:41:25 12 A. No, I said approximately that many
13:41:28 13 came in, but most of them sat at their location
13:41:33 14 waiting to be cleared.

13:41:36 15 Q. Do you know if any of the 200 that
13:41:39 16 came in were salvaged during the time that you
13:41:42 17 worked there?

13:41:43 18 A. I -- I don't believe I was there
13:41:45 19 long enough, because I will say again, that you
13:41:48 20 had that time period, and most of them -- some
13:41:50 21 of them that I -- when I first started might
13:41:55 22 have -- that was in -- in the two stacks that
13:42:00 23 were already there before I started working
13:42:01 24 there might have, but I don't know.

13:42:03 25 Q. But you didn't have anything to do

13:42:05 1 with the -- when you say the stacks, what
13:42:06 2 stacks were already there before you started
13:42:08 3 working?

13:42:09 4 A. The bin that had the yellow titles
13:42:11 5 and the bin that had the white titles.

13:42:14 6 Q. And you didn't have anything to do
13:42:15 7 with those, correct?

13:42:16 8 A. No, uh-huh.

13:42:17 9 Q. Okay. So you don't even have any
13:42:20 10 knowledge, as we sit here today, if any of the
13:42:22 11 slips of the vehicles that came in that said
13:42:25 12 Dayton Police Department on top of it, if any
13:42:28 13 of those cars were ever drained, burned and
13:42:31 14 salvaged, because you weren't there more than
13:42:33 15 two months, correct?

13:42:34 16 A. Correct, um-hum.

13:42:35 17 Q. Why don't you go ahead -- you've
13:42:47 18 got in front of you what's been marked as
13:42:51 19 Defendants' Exhibit 4. I'm going to give you a
13:42:53 20 red pen, and could you use the red pen to
13:42:57 21 roughly outline the area that comprised Doyle's
13:43:01 22 Auto Parts, including where he kept the
13:43:03 23 salvaged -- or kept the vehicles that came in
13:43:06 24 at the time frame that you worked there, okay?

13:43:11 25 A. Sure. (Indicating.) This is --

13:43:20 1 it's not really -- this was more up here
13:43:23 2 (indicating), but -- this was tier one and this
13:43:39 3 would be the area (indicating).

13:43:41 4 His building, I think -- well,
13:43:46 5 maybe it was. Here's Doyle's Auto Parts right
13:43:49 6 here (indicating), so let me go back a little
13:43:52 7 further. About like that (indicating).

13:43:55 8 Because his building sat there.
13:43:57 9 The entrance was right -- right about there
13:44:00 10 (indicating), and then the cars -- the ones
13:44:03 11 that were not to be touched was put right along
13:44:08 12 this line right here (indicating), and the
13:44:12 13 other places where they were broken down for
13:44:13 14 parts and so on and so forth.

13:44:15 15 Q. Okay. Let the record reflect that
13:44:18 16 he's drawn in with a red pen -- how would you
13:44:22 17 describe that shape, Mr. Grillot? Oblong?

13:44:30 18 A. Yeah, that would be close enough.

13:44:31 19 Q. An oblong shape indicating the
13:44:33 20 area that composed Doyle's Auto Parts,
13:44:35 21 including the area where they stored the
13:44:37 22 vehicles, is that correct?

13:44:38 23 A. Correct.

13:44:38 24 Q. All right. And on this map, can
13:44:41 25 you tell me, was there a specific location

13:44:43 1 where they would drain the fluids from the
13:44:46 2 vehicles?

13:44:49 3 A. Right there (indicating).

13:44:49 4 Q. And let the record reflect that he
13:44:52 5 circled the D in Doyle Auto Parts as the area
13:44:56 6 where the fluids would be drained --

13:44:57 7 A. Yes.

13:44:58 8 Q. -- is that correct? Other than
13:45:20 9 the two month period in 1969 when you worked
13:45:25 10 for Doyle Auto Parts, you never worked again
13:45:26 11 for him or in the auto salvage yard there,
13:45:31 12 correct?

13:45:31 13 A. No.

13:45:31 14 Q. Is that correct?

13:45:32 15 A. Correct.

13:45:32 16 Q. All right.

13:45:33 17 A. Sorry.

13:45:34 18 Q. Did he ever get a car compactor?

13:45:41 19 A. No.

13:45:42 20 Q. Are you aware of any other site in
13:45:49 21 the Dayton area that had a car compactor at
13:45:53 22 anytime between the time that you worked for
13:45:55 23 Doyle and today?

13:45:57 24 A. Yes.

13:45:57 25 Q. In what other areas?

13:45:59 1 MR. ROMINE: Objection. It goes
13:46:01 2 beyond the direct. It goes beyond what Judge Rice
13:46:03 3 said is appropriate for this deposition.
13:46:04 4 BY MR. MUSTO:
13:46:04 5 Q. You can go ahead and answer.
13:46:06 6 MR. ROMINE: Repeats his previous
13:46:08 7 testimony.
13:46:08 8 THE WITNESS: It was located in West
13:46:11 9 Carrollton.
13:46:11 10 BY MR. MUSTO:
13:46:13 11 Q. Other than the salvage yard or car
13:46:16 12 compactor in West Carrollton, are you aware of
13:46:18 13 any other auto salvage yards in the Dayton
13:46:22 14 area?
13:46:22 15 MR. ROMINE: Same objection.
13:46:23 16 THE WITNESS: No.
13:46:25 17 BY MR. MUSTO:
13:46:25 18 Q. Okay. And what's the name of the
13:46:28 19 compactor or auto salvage yard in West
13:46:28 20 Carrollton?
13:46:31 21 A. I don't know.
13:46:31 22 MR. ROMINE: Same objection.
13:46:31 23 BY MR. MUSTO:
13:46:31 24 Q. You don't know. Do you know the
13:46:33 25 rough location?

13:46:34 1 MR. ROMINE: Same objection.

13:46:36 2 THE WITNESS: I would, but only on a
13:46:38 3 map.

13:46:42 4 BY MR. MUSTO:

13:46:42 5 Q. Can you tell me roughly how many
13:46:43 6 miles that would be from the South Dayton
13:46:46 7 Landfill?

13:46:46 8 MR. ROMINE: Same objection.

13:46:49 9 THE WITNESS: Ten, 12 miles.

13:46:50 10 BY MR. MUSTO:

13:46:53 11 Q. Can you tell me what direction
13:46:54 12 from the South Dayton Landfill?

13:46:55 13 MR. ROMINE: Same objection.

13:46:56 14 THE WITNESS: South.

13:46:58 15 BY MR. MUSTO:

13:47:03 16 Q. Are you aware of any contracts
13:47:06 17 that any of the tow companies that brought cars
13:47:09 18 to Doyle Auto Parts had with the City of
13:47:11 19 Dayton, if any?

13:47:12 20 A. No.

13:47:54 21 Q. Do you know how long Doyle's Auto
13:47:56 22 Parts, the auto salvage yard, operated at the
13:47:59 23 South Dayton Landfill?

13:48:00 24 MR. ROMINE: Same objection.

13:48:13 25 THE WITNESS: '60s, '70s and '80s.

13:48:17 1 BY MR. MUSTO:

13:48:19 2 Q. Do you know if the business
13:48:20 3 changed at all during that time period?

13:48:22 4 MR. ROMINE: Same objection.

13:48:26 5 THE WITNESS: I think I heard once.

13:48:29 6 BY MR. MUSTO:

13:48:29 7 Q. And what did you hear?

13:48:30 8 MR. ROMINE: Same objection.

13:48:31 9 THE WITNESS: Early in the '90s.

13:48:34 10 BY MR. MUSTO:

13:48:37 11 Q. And what did you hear?

13:48:39 12 MR. ROMINE: Same objection.

13:48:41 13 THE WITNESS: That Doyle had sold
13:48:44 14 it to buy a -- a bar that he had built in that
13:48:55 15 area.

13:49:43 16 BY MR. MUSTO:

13:49:43 17 Q. One other question. During the
13:49:46 18 time that you worked at Doyle's Auto Parts,
13:49:50 19 approximately how many cars were there?

13:50:01 20 A. Five hundred.

13:50:02 21 Q. That's the most at any one time
13:50:08 22 that you believe were there during the time
13:50:10 23 that you worked there, correct?

13:50:10 24 A. Um-hum.

13:50:11 25 Q. Is that yes?

13:50:12 1 A. Yes.

13:50:22 2 MR. MUSTO: All right. I don't have
13:50:23 3 any other questions.

13:50:25 4 THE WITNESS: Thank you.

13:50:25 5 CROSS-EXAMINATION

13:50:25 6 BY MR. EDDY:

13:50:33 7 Q. Are you okay to continue, Mr.
13:50:33 8 Grillot?

13:50:46 9 A. Yes, I'm fine. Thank you for
13:50:47 10 asking.

13:50:47 11 Q. Thank you. Mr. Grillot, I'm
13:50:52 12 Robert Eddy. I represent Sherwin-Williams
13:50:56 13 Company. Can you hear me all right?

13:50:57 14 A. Yes.

13:50:58 15 Q. And, again, if you could keep up
13:51:00 16 your voice for the folks at the other end of
13:51:03 17 the table, it would be appreciated.

13:51:06 18 A. Okay.

13:51:06 19 Q. With respect to Uncle Alcie -- is
13:51:06 20 it Alcie (sic) or Alcine?

13:51:06 21 A. Alcine.

13:51:30 22 Q. Alcine. Thank you. Did he sort
13:51:33 23 of run the show at the -- from -- on a daily
13:51:35 24 basis out at the dump?

13:51:37 25 A. Yes.

13:51:38 1 Q. All right. And when you were out
13:51:39 2 there working, whether as a young boy or
13:51:42 3 through your teens, did you take your orders
13:51:44 4 from him?

13:51:48 5 A. Sometimes.

13:51:50 6 Q. Was one of the work orders just
13:51:53 7 generally for this, in a sense, waste not, want
13:52:00 8 not, that is, things that could be used,
13:52:04 9 salvaged, sold, would be used, salvaged, sold
13:52:07 10 rather than planted in a dump?

13:52:09 11 A. Correct.

13:52:10 12 Q. All right. And that's where
13:52:16 13 Franklin Iron came into play, they would take
13:52:18 14 off metal from the site?

13:52:22 15 A. They wouldn't, we would.

13:52:24 16 Q. For them?

13:52:25 17 A. Yes.

13:52:26 18 Q. Okay. In other words, whatever
13:52:28 19 metal was salvaged, it was sold to Franklin?

13:52:31 20 MR. ROMINE: Objection. It goes
13:52:33 21 beyond the scope of the direct. It violates Judge
13:52:35 22 Rice's order not to retread former testimony.

13:52:37 23 BY MR. EDDY:

13:52:37 24 Q. You may answer.

13:52:39 25 A. Yes.

13:52:39 1 Q. You mentioned with respect to -- I
13:52:45 2 think you mentioned three paint companies
13:52:49 3 associated with the dump. And when I talk
13:52:52 4 about the dump, I'm talking about the South
13:52:54 5 Dayton Dump, okay?

13:52:54 6 A. Okay.

13:52:55 7 Q. I think you mentioned Durrel
13:52:58 8 Paint?

13:52:58 9 A. Yes.

13:52:58 10 Q. I think you mentioned Pittsburgh
13:52:58 11 Paint?

13:52:58 12 A. Yes.

13:53:01 13 Q. That's also PPG, is that right?

13:53:02 14 A. Correct.

13:53:03 15 Q. And you mentioned
13:53:04 16 Sherwin-Williams?

13:53:05 17 A. Yes.

13:53:06 18 Q. All right. You said that paint
13:53:13 19 was used to paint a building or more than one
13:53:16 20 building on the site?

13:53:17 21 A. Yes.

13:53:18 22 Q. Did you personally participate in
13:53:22 23 that painting activity?

13:53:25 24 A. Yes.

13:53:25 25 Q. On more than one occasion?

13:53:27 1 A. Yes.

13:53:28 2 Q. Over more than one year?

13:53:29 3 A. Yes.

13:53:29 4 Q. Can you give me an idea the number
13:53:32 5 of occasions that you personally participated
13:53:35 6 in painting buildings out on the site where you
13:53:39 7 used paint that had come into the site from
13:53:42 8 some source?

13:53:43 9 A. How many times?

13:53:44 10 Q. Yeah.

13:53:45 11 A. Is that including equipment?

13:53:49 12 Q. I'm sorry, does that include --
13:53:51 13 what kind of -- I'm talking about --

13:53:54 14 A. The bulldozer, the tractor I
13:53:55 15 mentioned yesterday.

13:53:56 16 Q. Are you saying painted the
13:53:58 17 bulldozer as well?

13:53:59 18 A. Um-hum.

13:53:59 19 Q. Okay. Is that a yes?

13:54:01 20 A. Yes.

13:54:01 21 Q. Again, the court reporter can't --
13:54:06 22 this came up a few times before. If you could
13:54:08 23 verbalize your answers --

13:54:10 24 A. Sure. Yes.

13:54:10 25 Q. -- that would be helpful.

13:54:12 1 A. Okay.

13:54:12 2 Q. Well, let -- let's just start with
13:54:14 3 the things that got painted with paint material
13:54:18 4 that came into the site that was used at the
13:54:20 5 site to paint buildings, dozers, whatever.

13:54:24 6 What are the types of things that
13:54:25 7 the paint was used on?

13:54:26 8 MR. ROMINE: Asked and answered. I
13:54:27 9 have the same objection as previously.

13:54:30 10 THE WITNESS: Anything that was metal
13:54:31 11 that we didn't want to rust, the gate, front gate.
13:54:35 12 We had poles, fences. We had a couple diesel
13:54:49 13 drums that -- that -- diesel was put in for the
13:54:55 14 dozer and -- and the tractor. I think that's it.

13:54:58 15 BY MR. EDDY:

13:55:02 16 Q. So you had some buildings?

13:55:03 17 A. Yeah.

13:55:05 18 Q. You had a dozer or more than one
13:55:08 19 dozer?

13:55:10 20 A. We had two, but one was only
13:55:17 21 runable (sic).

13:55:18 22 Q. Did you ever paint the one that
13:55:20 23 wasn't runable?

13:55:21 24 A. While it was -- when it was
13:55:23 25 running, yeah.

13:55:23 1 Q. Well, all right. So you had
13:55:26 2 buildings, you had two dozers, you had some
13:55:30 3 fencing, right?

13:55:31 4 A. Um-hum.

13:55:31 5 Q. Is that a yes?

13:55:32 6 A. Yeah. Yes. I'm sorry.

13:55:34 7 Q. That's all right. You had a
13:55:35 8 couple containers for -- I don't know whether
13:55:44 9 it was -- it wasn't gasoline. It was --

13:55:46 10 A. Diesel.

13:55:46 11 Q. -- diesel?

13:55:47 12 A. Yes.

13:55:48 13 Q. Posts?

13:55:51 14 A. Yes.

13:55:52 15 Q. Any -- and I'm -- just want to go
13:55:57 16 over this list now. Anything else that you
13:55:59 17 recall other than what you've just told me, the
13:56:02 18 buildings, the dozers, fencing, the diesel
13:56:04 19 containers, posts?

13:56:05 20 A. The front gate.

13:56:06 21 Q. Front gate.

13:56:11 22 A. I think that's it.

13:56:12 23 Q. Okay. Are there a number of
13:56:14 24 buildings on the site?

13:56:17 25 A. Yes.

13:56:17 1 Q. And are some of the buildings --
13:56:20 2 are there more than one building that has metal
13:56:23 3 associated with it?

13:56:23 4 A. Yes.

13:56:24 5 Q. How many buildings, in your memory
13:56:27 6 were there -- separate buildings that were
13:56:29 7 painted by you or other workers where you used
13:56:33 8 paint that came in from offsite?

13:56:38 9 A. From off -- offsite?

13:56:40 10 Q. Yes. In other words, paint
13:56:42 11 came into the dump, whether it be from Sher --
13:56:44 12 you said there were canisters that came in that
13:56:48 13 had liquid in them, paint in them, is that
13:56:51 14 correct?

13:56:51 15 A. Correct.

13:56:52 16 Q. Okay. And then paint was used to
13:56:55 17 paint the building, the dozers, the fencing, et
13:56:58 18 cetera, is that right?

13:56:59 19 A. Correct.

13:56:59 20 Q. Okay. So what I want to know is
13:57:03 21 how many different buildings on the site did
13:57:07 22 you or other folks that worked at the dump use
13:57:12 23 the paint that came into the site to paint?
13:57:17 24 How many buildings?

13:57:17 25 A. Ten.

13:57:29 1 Q. Was there a main building?

13:57:31 2 A. Yes.

13:57:32 3 Q. Okay. Is it possible for you on
13:57:44 4 Exhibit 4 -- you know, let's -- let's mark this
13:57:54 5 as 5, if we could.

13:57:54 6 (Thereupon, Defendants' Exhibit
13:57:54 7 Number 5, South Dayton Dump and Land Site map, was
13:58:24 8 marked for purposes of identification.)

13:58:24 9 BY MR. EDDY:

13:58:25 10 Q. I'm going to hand you what we have
13:58:27 11 marked as Defendants' Exhibit Number 5, and
13:58:30 12 this is simply a clean copy of one of the prior
13:58:34 13 deposition exhibits from today, but it's also a
13:58:37 14 copy of a Deposition Exhibit Number 2 from your
13:58:42 15 2012 deposition, okay? Just so we have that
13:58:45 16 clear on the record.

13:58:45 17 And what I'd like you to do, if
13:58:48 18 you can, using this red pen is -- is to circle
13:58:55 19 the ten buildings on the site that you just
13:58:59 20 told me about.

13:59:02 21 MR. ROMINE: Objection. It goes
13:59:03 22 beyond scope of the deposition. It goes beyond
13:59:05 23 the scope of direct. It also violates Judge
13:59:07 24 Rice's order that the scope of the deposition be
13:59:09 25 limited.

13:59:09 1 THE WITNESS: (Indicating.)

13:59:09 2 BY MR. EDDY:

13:59:25 3 Q. You know, I really wished I would
13:59:26 4 have asked you to highlight that on the end,
13:59:28 5 and that's what I'm going to ask you to do in
13:59:31 6 yellow. If you could highlight in, as best you
13:59:34 7 can, those ten buildings.

13:59:40 8 A. (Indicating.)

13:59:49 9 Q. Okay. Thank you.

13:59:49 10 A. Um-hum.

13:59:50 11 Q. Now, you also told me that you had
13:59:57 12 personally participated in the painting of
14:00:01 13 these buildings with this paint that would come
14:00:03 14 in from offsite over a number of years, is that
14:00:03 15 correct?

14:00:09 16 A. Correct.

14:00:09 17 Q. How often were these buildings
14:00:12 18 painted?

14:00:13 19 MR. ROMINE: Same objection.

14:00:17 20 THE WITNESS: I did it twice.

14:00:18 21 BY MR. EDDY:

14:00:19 22 Q. Okay. Does that mean that you
14:00:22 23 worked on two buildings or you worked on all
14:00:25 24 ten buildings two times?

14:00:30 25 A. I worked on all buildings

14:00:36 1 during -- two times.

14:00:42 2 Q. Okay. And did you ever observe
14:00:46 3 other workers at the dump painting those ten
14:00:51 4 buildings, maybe not all at once obviously, but
14:00:56 5 over a period of time where you weren't doing
14:00:58 6 the work, but you saw others doing that work,
14:01:00 7 that painting?

14:01:01 8 MR. ROMINE: Same objection.

14:01:02 9 THE WITNESS: Yes.

14:01:03 10 BY MR. EDDY:

14:01:03 11 Q. Okay. The fence that you told me
14:01:08 12 about, where was that fence located?

14:01:11 13 MR. ROMINE: Same objection.

14:01:13 14 BY MR. EDDY:

14:01:14 15 Q. Can you just tell me just
14:01:15 16 generally did it encircle the dump? I mean,
14:01:18 17 are we talking about 20 feet of fence? Are we
14:01:20 18 talking about 500 feet of fence? Can you give
14:01:22 19 me some idea?

14:01:24 20 MR. ROMINE: Same objection. Vague.

14:01:25 21 THE WITNESS: Well, over the years,
14:01:30 22 we had three locations -- different locations. As
14:01:35 23 the dump was progressing to be filled, we had
14:01:37 24 three separate entrances, two of which that I
14:01:41 25 painted during my time there. Do you want me to

14:01:47 1 locate them?

14:01:47 2 BY MR. EDDY:

14:01:47 3 Q. Well, are those the gates that
14:01:50 4 you're talking about --

14:01:50 5 A. Right.

14:01:51 6 Q. -- that you painted? I'm asking
14:01:52 7 about the fencing material --

14:01:54 8 A. Okay.

14:01:54 9 Q. -- the fencing. Are you saying --
14:01:56 10 when you told us that the fences were painted
14:01:58 11 with the paint that came onto the site, were
14:02:00 12 you referring to the gates or were you
14:02:02 13 referring to other fencing material around the
14:02:05 14 site?

14:02:06 15 MR. ROMINE: Same objection.

14:02:07 16 THE WITNESS: There's a location very
14:02:09 17 north of the dump that had -- General Motors had
14:02:20 18 their camp RVs and new -- brand new trucks at one
14:02:24 19 time, and it was a silver with a barbwire that was
14:02:29 20 approximately maybe five feet -- 500 feet long and
14:02:36 21 about eight feet tall.

14:02:38 22 BY MR. EDDY:

14:02:38 23 Q. And is this the standard fencing
14:02:40 24 that you'd see in the interlocking --

14:02:41 25 A. Right.

14:02:42 1 Q. -- wire fencing?

14:02:42 2 A. Correct.

14:02:43 3 MR. ROMINE: Same objection.

14:02:45 4 BY MR. EDDY:

14:02:45 5 Q. All right. You said that was
14:02:47 6 about 500 feet by what?

14:02:48 7 MR. ROMINE: Same objection.

14:02:50 8 THE WITNESS: By eight.

14:02:51 9 BY MR. EDDY:

14:02:51 10 Q. By eight. The posts -- were there
14:02:53 11 a lot of posts or just a couple of posts?

14:02:55 12 MR. ROMINE: Same objection.

14:02:56 13 THE WITNESS: Lots.

14:02:57 14 BY MR. EDDY:

14:02:57 15 Q. Lots?

14:02:58 16 A. Lots of posts.

14:02:58 17 Q. Where would these posts be and
14:03:01 18 what function did they serve?

14:03:01 19 MR. ROMINE: Same objection.

14:03:03 20 Objection to form.

14:03:04 21 THE WITNESS: Well, the 500 feet of
14:03:07 22 fence would consist of maybe 40 poles. The gates,
14:03:14 23 as they moved to the set -- to the location I'm
14:03:19 24 speaking of, we had put up a barrier fence, and
14:03:23 25 that was probably a hundred feet long.

14:03:26 1 Then we had poles that had signs on
14:03:28 2 them, stop, do not enter, drive in at your own
14:03:33 3 risk, stuff like that.

14:03:33 4 BY MR. EDDY:

14:03:39 5 Q. And were the posts -- so you had
14:03:40 6 some posts that were associated with the
14:03:43 7 fencing you've told me about?

14:03:44 8 A. Um-hum.

14:03:44 9 Q. Is that yes?

14:03:45 10 A. Yes. I'm sorry.

14:03:45 11 Q. That's all right. And you had
14:03:48 12 some gates. Was there three gates for the
14:03:51 13 three entrances?

14:03:52 14 MR. ROMINE: Same objection. Asked
14:03:53 15 and answered.

14:03:53 16 THE WITNESS: Yes.

14:03:54 17 BY MR. EDDY:

14:03:56 18 Q. Can you describe for me the size
14:03:57 19 of the gates?

14:03:57 20 MR. ROMINE: Same objection. Asked
14:04:00 21 and answered.

14:04:00 22 THE WITNESS: They're approximately
14:04:03 23 20 feet long, four inches in diameter, and then
14:04:13 24 it -- there was a pole that stuck out and then it
14:04:15 25 was on a pedestal, and the pedestal was maybe four

14:04:19 1 feet tall.

14:04:22 2 BY MR. EDDY:

14:04:23 3 Q. How high?

14:04:23 4 MR. ROMINE: Same objection.

14:04:26 5 THE WITNESS: Four feet tall.

14:04:27 6 BY MR. EDDY:

14:04:28 7 Q. Oh, I'm sorry.

14:04:30 8 A. That's okay.

14:04:30 9 Q. The diesel containers, how big
14:04:33 10 were they?

14:04:34 11 MR. ROMINE: Same objection.

14:04:36 12 THE WITNESS: They were a size of a
14:04:39 13 Volkswagen. Eight feet round, eight feet long,
14:04:47 14 and then they set on top of metal things that the
14:04:53 15 drum set on.

14:04:55 16 BY MR. EDDY:

14:05:04 17 Q. Okay. Now, were the buildings --
14:05:05 18 the ten buildings that were painted using paint
14:05:10 19 that came into the dump from offsite, from
14:05:13 20 whatever location, were they painted on any
14:05:21 21 regular basis, that is --

14:05:22 22 MR. ROMINE: Same objection.

14:05:22 23 BY MR. EDDY:

14:05:23 24 Q. -- annually or were they painted
14:05:27 25 whenever there was enough paint or remnants of

14:05:30 1 paint that came in from offsite?

14:05:32 2 MR. ROMINE: Same objection.

14:05:34 3 THE WITNESS: The second would be --

14:05:36 4 BY MR. EDDY:

14:05:37 5 Q. Okay. And you indicated, I think,
14:05:45 6 in your 2012 deposition that, you know, at one
14:05:52 7 point you had pink buildings one year, olive
14:05:55 8 colored the next. Do you remember that
14:05:56 9 testimony?

14:05:56 10 A. Yes.

14:05:56 11 Q. The paint that was used onsite, to
14:06:10 12 paint these things that you've just told us
14:06:12 13 about, what was done to, I guess, aggregate the
14:06:21 14 remnants of paint that would be in any
14:06:24 15 canisters together to get enough paint to paint
14:06:26 16 a building --

14:06:26 17 MR. ROMINE: Same objection.

14:06:27 18 BY MR. EDDY:

14:06:28 19 Q. -- can you explain that to me?

14:06:29 20 MR. ROMINE: Same objection.

14:06:32 21 THE WITNESS: Are you talking about
14:06:33 22 what size containers, is that what --

14:06:36 23 BY MR. EDDY:

14:06:36 24 Q. Well, we can start with that.

14:06:38 25 A. Okay.

14:06:38 1 Q. You told us yesterday that the
14:06:43 2 paint companies -- there were some drums that
14:06:45 3 came in.

14:06:46 4 A. Yes.

14:06:46 5 Q. Okay. And you said with respect
14:06:51 6 to Pittsburgh Paint, and I think separately as
14:06:54 7 to Sherwin-Williams, that most of them were
14:06:57 8 empty. Do you recall that testimony?

14:06:59 9 MR. ROMINE: Same objection.

14:07:00 10 THE WITNESS: Yes.

14:07:01 11 BY MR. EDDY:

14:07:02 12 Q. And I think with respect to the --
14:07:06 13 that testimony, you said occasionally there
14:07:08 14 would be some remnant in the bottom of the --
14:07:11 15 the drum, and I think you put your fingers
14:07:13 16 about like this (indicating), a couple
14:07:15 17 inches --

14:07:15 18 A. Right.

14:07:16 19 Q. -- deep, if you will. Do you
14:07:19 20 recall doing that with your fingers?

14:07:20 21 A. Yes.

14:07:20 22 Q. Okay. So what you're trying to
14:07:22 23 say is that, although most of the drums were
14:07:24 24 empty when they came to the site, some of the
14:07:27 25 drums had some remnants of some material in the

14:07:31 1 bottom of them, and you were saying a couple
14:07:34 2 inches deep at the bottom of the drum, correct?

14:07:37 3 A. Correct.

14:07:37 4 Q. Is that what you recall?

14:07:39 5 A. Correct.

14:07:39 6 Q. All right. And you said with
14:07:41 7 respect to the remnants of the drums, whatever
14:07:45 8 the liquid was that was in the drums, that it
14:07:48 9 would be dumped, you said, behind an office.

14:07:51 10 A. Um-hum.

14:07:51 11 Q. Do you recall that testimony?

14:07:52 12 A. Yes. Yes.

14:07:54 13 Q. Okay. Did you actually do that
14:07:56 14 yourself?

14:07:56 15 A. Yes.

14:07:58 16 Q. Okay. Did you do it on more than
14:08:00 17 one occasion?

14:08:01 18 A. Yes.

14:08:01 19 Q. Did you see any others do it or
14:08:04 20 did you just -- was that part of your job that
14:08:07 21 you did?

14:08:07 22 A. Bud Young, he -- I saw him do it a
14:08:13 23 few times.

14:08:13 24 Q. Okay. Do you have any idea -- can
14:08:16 25 you estimate for me the number of times when

14:08:19 1 you might have dumped out this -- this couple
14:08:22 2 inch remnant at the bottom of a drum on the
14:08:26 3 ground behind the office?

14:08:28 4 A. I could give you a guesstimate.
14:08:31 5 That's --

14:08:31 6 Q. What would your guesstimate be? A.
14:08:34 7 dozen?

14:08:34 8 A. Twenty maybe.

14:08:34 9 Q. Okay. Less than 20 you think?

14:08:37 10 A. Yeah.

14:08:37 11 Q. All right. And can you -- on this
14:08:41 12 exhibit that we've marked here, what office
14:08:45 13 building were you referring to was the place
14:08:47 14 that -- where the drums weren't completely
14:08:51 15 empty but had some remnant of liquid in them
14:08:54 16 you would dump them behind the office?

14:08:59 17 A. (Indicating.)

14:09:00 18 Q. Okay. Now, on Exhibit 5 you've
14:09:03 19 just marked a black circle with an X through
14:09:06 20 it, is that correct?

14:09:06 21 A. Correct.

14:09:07 22 Q. All right. Very good. And is
14:09:10 23 this the office building that you're talking
14:09:13 24 about now that I'm pointing to --

14:09:15 25 A. No.

14:09:16 1 Q. -- or is it one of the other
14:09:17 2 buildings?

14:09:17 3 A. At this particular time, there was
14:09:18 4 a trailer sitting right here (indicating). It
14:09:21 5 was behind the office. It was a regular house
14:09:23 6 trailer.

14:09:23 7 Q. Oh, okay. Can I -- let's just put
14:09:27 8 in the word trailer there.

14:09:28 9 A. Um-hum.

14:09:29 10 Q. Can I do that?

14:09:30 11 A. Yeah.

14:09:30 12 Q. With a little arrow to it so we
14:09:34 13 know what we're talking about (indicating).
14:09:36 14 Okay. Thank you.

14:09:44 15 Now, those barrels with that
14:09:51 16 remnant material, do you know of your own
14:09:55 17 personal knowledge what that material was,
14:09:58 18 whether it was paint or -- or what it was?

14:10:02 19 MR. ROMINE: Asked and answered.

14:10:03 20 BY MR. EDDY:

14:10:03 21 Q. Do you know?

14:10:04 22 A. Yes.

14:10:04 23 Q. What was it?

14:10:08 24 A. Paint thinner. Denatured alcohol.

14:10:29 25 I'm not sure, but sometimes I think there was

14:10:32 1 what was called creosote.

14:10:36 2 Q. Creosote?

14:10:38 3 A. Um-hum.

14:10:38 4 Q. Is that a yes?

14:10:40 5 A. Yes.

14:10:40 6 Q. Now, are these barrels -- the
14:10:50 7 barrels that we're talking about here, these
14:10:53 8 drums, are these 55-gallon drums?

14:10:54 9 A. Correct.

14:10:55 10 Q. And are these drums that came from
14:10:58 11 some source of paint from outside the dump to
14:11:02 12 the dump, some painting operation?

14:11:04 13 A. Yes.

14:11:05 14 Q. Okay. Was there any -- when you
14:11:14 15 say paint thinner, denatured alcohol, is that
14:11:18 16 something you smelled?

14:11:18 17 A. Oh, yeah.

14:11:19 18 Q. Okay. Did it have -- was there
14:11:20 19 any markings on the drums?

14:11:23 20 A. I think there was a red sign that
14:11:27 21 said toxic.

14:11:29 22 Q. Do you recall whether it said
14:11:31 23 anything about what it was, that is, the names,
14:11:35 24 paint thinner?

14:11:37 25 A. I believe it was on a slip that

14:11:39 1 was kind of Scotch taped to the side of the
14:11:39 2 barrel.

14:11:47 3 Q. All right. Now, the paint that
14:11:50 4 would be used, however, to -- let me just touch
14:11:56 5 upon this then.

14:11:57 6 In the 55-gallon drums, whatever
14:12:00 7 one or two inches of remnant might be present
14:12:04 8 at the bottom of these barrels, it wasn't
14:12:06 9 paint, it was some form of either paint
14:12:11 10 thinner, denatured alcohol or creosote you
14:12:11 11 said?

14:12:14 12 A. Right.

14:12:14 13 MR. ROMINE: Asked and answered.

14:12:14 14 BY MR. EDDY:

14:12:14 15 Q. The paint that was used to paint
14:12:17 16 the buildings on the site, what did those come
14:12:21 17 in on -- or in? One gallon canisters.

14:12:27 18 A. Five -- mostly fives, one gallon
14:12:29 19 and quarts.

14:12:33 20 Q. Fives, ones and quarts?

14:12:35 21 A. (Witness nodding head up and
14:12:36 22 down.)

14:12:36 23 Q. Correct?

14:12:36 24 A. Yes, correct.

14:12:38 25 Q. And the five gallon canisters,

14:12:43 1 were those metal?

14:12:44 2 A. Yes.

14:12:45 3 Q. And was one of your jobs to open
14:12:51 4 them up and see what colors were in there?

14:12:53 5 A. Correct.

14:12:54 6 Q. And were -- were most of those
14:12:58 7 canisters by and large empty?

14:13:02 8 A. No, most -- most of them was
14:13:04 9 either half full or three quarters of the way
14:13:04 10 full.

14:13:09 11 Q. Okay. Did you have any
14:13:11 12 understanding of -- well, were these -- strike
14:13:20 13 that. Was part of your job to aggregate the
14:13:30 14 paint together so that the buildings could be
14:13:32 15 painted?

14:13:32 16 A. Yes.

14:13:32 17 Q. Were you the only one that had --

14:13:34 18 A. Yes. Pardon me?

14:13:35 19 Q. Were you the only one that had
14:13:37 20 that job?

14:13:37 21 A. No.

14:13:38 22 Q. Okay. Were there others at the
14:13:42 23 same time that you had that job that were doing
14:13:44 24 that as well?

14:13:45 25 A. Yes.

14:13:45 1 Q. All right. And would you try to
14:13:49 2 aggregate the same types of paints together,
14:13:52 3 that is, oil based paints with oil based
14:13:54 4 paints, latex with latex?

14:13:56 5 A. Correct.

14:13:57 6 Q. Okay. And -- and would you
14:14:00 7 generally mix different colors of these paints
14:14:03 8 together, and, therefore, some days -- some --
14:14:06 9 some years you ended up with a pink building or
14:14:08 10 a tan building because the colors you mixed
14:14:10 11 together turned out to be pink or turned out to
14:14:13 12 be tan or whatever color you happened to paint
14:14:16 13 them as?

14:14:16 14 A. Right.

14:14:17 15 Q. Okay. Gotcha. Was that -- the
14:14:25 16 aggregation of the paint and the use of the
14:14:26 17 paint onsite to paint these ten buildings, was
14:14:29 18 that part of Alcie's (sic) rule of, you know,
14:14:32 19 we want to use whatever we can and sell
14:14:36 20 whatever we can on the site before it goes into
14:14:40 21 the dump?

14:14:41 22 MR. ROMINE: Objection.

14:14:41 23 THE WITNESS: Right.

14:14:41 24 BY MR. EDDY:

14:14:42 25 Q. Or rather than going into the

14:14:43 1 dump, correct?

14:14:43 2 A. Correct.

14:14:45 3 MR. ROMINE: Objection. It violates
14:14:46 4 Judge Rice's order.

14:14:53 5 Q. All right. And when you would
14:14:58 6 aggregate these paints from five gallon
14:15:00 7 containers, one gallon containers and quarts,
14:15:04 8 what would you aggregate them in?

14:15:08 9 A. Usually it was a five gallon --
14:15:16 10 if -- the five gallon from the quarts and
14:15:19 11 gallons, and then we would -- if we got that
14:15:22 12 much, then we'd pour it into a 55-gallon
14:15:24 13 drum.

14:15:25 14 Q. Okay. So you would aggregate
14:15:26 15 quarts into gallons, gallons into five --
14:15:30 16 fives, and anything more than that, you'd end
14:15:33 17 up putting into an empty --

14:15:35 18 A. Drum.

14:15:35 19 Q. -- 55-gallon drum?

14:15:37 20 A. Right.

14:15:37 21 Q. And then putting a lid on it until
14:15:40 22 you would use it to paint these ten buildings,
14:15:42 23 right --

14:15:43 24 A. Right.

14:15:45 25 Q. -- correct?

14:15:45 1 A. Um-hum.

14:15:45 2 Q. Is that a yes?

14:15:46 3 A. Yes.

14:15:46 4 Q. Did you ever get to decide what
14:15:54 5 colors this was going to be painted, these
14:15:56 6 buildings?

14:15:56 7 MR. ROMINE: Same objection.

14:15:56 8 THE WITNESS: No.

14:15:56 9 BY MR. EDDY:

14:15:57 10 Q. Did somebody decide that?

14:15:58 11 MR. ROMINE: Same objection.

14:15:59 12 THE WITNESS: Yes.

14:15:59 13 BY MR. EDDY:

14:16:00 14 Q. Who decided that?

14:16:00 15 MR. ROMINE: Same objection.

14:16:02 16 THE WITNESS: Horace Boesch and Cyril
14:16:02 17 Grillot.

14:16:08 18 BY MR. EDDY:

14:16:08 19 Q. Okay. I'm going to show you some
14:16:12 20 exhibits that were marked at your prior
14:16:16 21 deposition, and I'll read out the numbers.

14:16:22 22 I'm not sure I'm going to mark
14:16:24 23 them separately, but this was marked at your
14:16:28 24 prior 2012 deposition as Exhibit 5, and was
14:16:31 25 that one of the buildings that would be

14:16:33 1 painted?

14:16:33 2 MR. ROMINE: Same objection.

14:16:34 3 THE WITNESS: Yes.

14:16:34 4 BY MR. EDDY:

14:16:35 5 Q. Is that a yes?

14:16:36 6 A. Yes.

14:16:37 7 Q. Okay. And can you tell me on

14:16:44 8 Exhibit 4 here where that building is?

14:16:46 9 MR. ROMINE: Same objection.

14:16:48 10 THE WITNESS: That one right there

14:16:48 11 (indicating).

14:16:48 12 BY MR. EDDY:

14:16:50 13 Q. All right. Can you put a number

14:16:50 14 one there on Defendants' Exhibit 4, a number

14:16:53 15 one and circle it?

14:16:56 16 A. (Indicating.)

14:16:57 17 Q. And is this the building you're

14:16:58 18 talking about right next to it?

14:16:59 19 A. Um-hum.

14:17:00 20 Q. And then you put a little arrow to

14:17:02 21 the building. Thank you. So that was one of

14:17:04 22 the buildings that I'm showing you a picture of

14:17:06 23 now from your 2012 deposition, Exhibit 5, that

14:17:09 24 was one of the buildings that was painted with

14:17:12 25 the paint that would come in from the site,

14:17:13 1 correct?

14:17:14 2 A. Correct. There's one of the gates
14:17:15 3 (indicating).

14:17:15 4 Q. And it shows one of the gates. It
14:17:17 5 appears to be a white gate.

14:17:19 6 A. Yes. This is the fence
14:17:20 7 (indicating).

14:17:20 8 Q. And it shows some fencing in front
14:17:24 9 of the building that's shown in the photograph,
14:17:25 10 correct?

14:17:25 11 A. Correct.

14:17:26 12 Q. All right. Showing you the 2012
14:17:32 13 Deposition Exhibit 6, either one of these
14:17:36 14 buildings, did you do any painting or did any
14:17:40 15 of the other employees of the dump do any
14:17:41 16 painting on either one of these buildings?

14:17:44 17 MR. ROMINE: Same objection.

14:17:45 18 THE WITNESS: This one, this one,
14:17:46 19 this one (indicating).

14:17:47 20 BY MR. EDDY:

14:17:47 21 Q. Now, I only see two buildings
14:17:49 22 here, but you pointed to something --

14:17:49 23 A. There's one right behind here
14:17:49 24 (indicating).

14:17:52 25 Q. Okay. Right in the center of the

14:17:52 1 photograph there's a tree, and right next to
14:17:53 2 the tree it looks like a white little spot, but
14:17:56 3 that's a building behind that tree?

14:17:58 4 MR. ROMINE: Same objection.

14:17:59 5 THE WITNESS: Yes. That was Doyle's
14:18:02 6 Auto Parts' building.

14:18:02 7 BY MR. EDDY:

14:18:02 8 Q. All right. And so even Doyle's
14:18:05 9 Auto Parts' building got painted?

14:18:06 10 MR. ROMINE: Same objection.

14:18:06 11 THE WITNESS: Right.

14:18:08 12 BY MR. EDDY:

14:18:08 13 Q. All right. Is Doyle's one of the
14:18:10 14 ten that you pointed out to me on this prior
14:18:13 15 exhibit here?

14:18:13 16 MR. ROMINE: Same objection.

14:18:13 17 THE WITNESS: Correct.

14:18:13 18 BY MR. EDDY:

14:18:15 19 Q. All right. Okay. Gotcha. The
14:18:18 20 building on the photograph that shows this
14:18:22 21 Exhibit 6 from the 2012 deposition on the right
14:18:24 22 has four or five bay doors. Do you see that?

14:18:28 23 MR. ROMINE: Same objection.

14:18:28 24 THE WITNESS: Yes.

14:18:28 25 BY MR. EDDY:

14:18:30 1 Q. What is the name of that building?

14:18:31 2 MR. ROMINE: Same objection.

14:18:32 3 THE WITNESS: We called it the GM
14:18:33 4 building.

14:18:33 5 BY MR. EDDY:

14:18:33 6 Q. Okay. And what building is it
14:18:37 7 on -- now, I'm going to ask you to mark this on
14:18:41 8 Exhibit 4 that we've marked today, which is a
14:18:44 9 larger version of the -- the plot.

14:18:47 10 A. (Indicating.)

14:18:55 11 Q. Okay. So you've marked it. Could
14:19:00 12 you circle the two there for me? And you've
14:19:00 13 put an arrow into the building that is to the
14:19:03 14 right on Deposition Exhibit 6 from your 2012
14:19:06 15 deposition with the four bay doors, is that
14:19:06 16 correct?

14:19:13 17 A. This isn't actually laid out.

14:19:19 18 Q. What -- I don't want you to mark
14:19:20 19 anything more on -- on Exhibit 4.

14:19:23 20 A. Okay. That's a close -- yeah.
14:19:26 21 This --

14:19:26 22 Q. Let me -- let me just go this way
14:19:31 23 here. This -- this building on the left of
14:19:36 24 Deposition Exhibit 6 that was also painted, can
14:19:39 25 you show me where that exists on Exhibit 4?

14:19:42 1 MR. ROMINE: Same objection.

14:19:44 2 THE WITNESS: (Indicating.)

14:19:48 3 BY MR. EDDY:

14:19:48 4 Q. Okay. So you've marked that as
14:19:50 5 number three with an arrow pointing to that
14:19:52 6 building as well, correct?

14:19:53 7 A. Correct.

14:19:55 8 MR. MUSTO: Which exhibit number is
14:19:57 9 he marking on?

14:19:58 10 MR. EDDY: Exhibit 4 marked today.

14:20:01 11 MR. MUSTO: 4. Okay.

14:20:01 12 BY MR. EDDY:

14:20:02 13 Q. Deposition Exhibit 7, is that --
14:20:04 14 from your 2012 deposition, is that a better
14:20:09 15 look at the building that you've just
14:20:11 16 identified as number three on Exhibit 4 that
14:20:14 17 appears also on the left?

14:20:16 18 A. No.

14:20:16 19 MR. ROMINE: Same objection.

14:20:17 20 BY MR. EDDY:

14:20:17 21 Q. Is that a different building?

14:20:18 22 A. Yes.

14:20:18 23 Q. So Exhibit 7 -- let me -- follow
14:20:21 24 with me here, if you would. Exhibit 7 from
14:20:24 25 your 2012 deposition shows another building on

1 the site, right?

2 MR. ROMINE: Same objection.

3 THE WITNESS: Correct.

4 (Thereupon, the court reporter
5 interrupted the deposition.)

14:20:39 6 MR. COUGHLIN: Bob, I have an idea.

14:20:39 7 MR. EDDY: What?

14:20:42 8 MR. COUGHLIN: Along the lines you
14:20:43 9 offered.

14:20:43 10 BY MR. EDDY:

14:20:44 11 Q. Yeah. Thank you for reminding me
14:20:48 12 and the witness. If you could just -- I'll ask
14:20:51 13 you a question, counsel here is going to have
14:20:54 14 some objections. Let him state his objection
14:20:56 15 for the record, and then you can answer my
14:20:58 16 question. If -- if you talk right at the end
14:21:00 17 of my question, you're going to be talking over
14:21:03 18 Dave, okay?

14:21:04 19 A. Okay. All right. Sure.

14:21:04 20 Q. Let's try to avoid that. So now
14:21:07 21 I'm showing you Exhibit 7 from your 2012
14:21:09 22 deposition, and this shows another building on
14:21:12 23 the site, correct?

14:21:12 24 A. Correct.

14:21:15 25 MR. ROMINE: Same objection.

14:21:15 1 BY MR. EDDY:

14:21:15 2 Q. And what is the name of this
14:21:16 3 building?

14:21:17 4 MR. ROMINE: Same objection.

14:21:18 5 THE WITNESS: That was called tool
14:21:24 6 and die. It was a tool and die shop, but I -- I
14:21:27 7 should know the name. Something tool and die.

14:21:30 8 BY MR. EDDY:

14:21:30 9 Q. Okay. Was that one of the ten
14:21:32 10 buildings that you've previously marked in
14:21:34 11 yellow on one of the exhibits here that I've
14:21:34 12 shown you --

14:21:37 13 A. Yes.

14:21:37 14 MR. ROMINE: Same objection.

14:21:37 15 BY MR. EDDY:

14:21:37 16 Q. -- or is that a different
14:21:37 17 building?

14:21:39 18 A. Yes.

14:21:39 19 Q. It's a different building?

14:21:43 20 A. I'm confused.

14:21:44 21 Q. All right. Let's try to clear up
14:21:47 22 your confusion. On Exhibit 5 that I showed you
14:21:49 23 here today, I had -- I had you circle in red
14:21:53 24 and then color in in yellow highlight marker --

14:21:57 25 A. Right.

14:21:58 1 Q. -- the ten buildings that were
14:21:58 2 painted over a period of years at the site --

14:22:01 3 A. Okay.

14:22:01 4 Q. -- correct?

14:22:02 5 A. Correct.

14:22:03 6 Q. Okay. This building then I'm
14:22:05 7 showing you here, the photograph that appears
14:22:10 8 as Deposition Exhibit 7 from your 2012
14:22:12 9 deposition, is this building one of the ten
14:22:16 10 buildings you showed me on Exhibit 5?

14:22:17 11 MR. ROMINE: Same objection.

14:22:19 12 THE WITNESS: Yes.

14:22:20 13 BY MR. EDDY:

14:22:21 14 Q. Okay. That's fine. Now, this
14:22:24 15 building that's shown in Exhibit 7 from your
14:22:28 16 2012 deposition, can you mark that with a
14:22:33 17 number four on Defendants' Exhibit 4 that we've
14:22:37 18 marked today?

14:22:37 19 A. (Indicating.)

14:22:43 20 Q. All right. Good. Was this one of
14:22:46 21 the buildings that you would have been involved
14:22:47 22 in painting over a period of years while you
14:22:50 23 were at the dump?

14:22:50 24 MR. ROMINE: Same objection. It's
14:22:52 25 been asked and answered.

14:22:52 1 THE WITNESS: Yes.

14:22:53 2 BY MR. EDDY:

14:22:57 3 Q. Showing you what was marked as
14:22:59 4 Deposition Exhibit 8 at your 2012 deposition,
14:23:03 5 this shows a -- it's a photograph of a building
14:23:08 6 that, I think, is just of a different angle.

14:23:10 7 It's the same building but just
14:23:12 8 from a different angle as the building shown in
14:23:14 9 Exhibit 7 from your 2012 deposition, is that
14:23:17 10 correct?

14:23:17 11 MR. ROMINE: Same objection.

14:23:18 12 THE WITNESS: No.

14:23:19 13 BY MR. EDDY:

14:23:19 14 Q. It's a different building. Okay.

14:23:24 15 A. If you -- if you -- do you want me
14:23:25 16 to show you?

14:23:26 17 Q. Well, what do you want -- what is
14:23:27 18 it that you want to show me, sir?

14:23:29 19 A. Remember you saw that little white
14:23:31 20 speck?

14:23:31 21 Q. Yes.

14:23:32 22 A. That is part of this little corner
14:23:34 23 here (indicating).

14:23:34 24 Q. Okay. So back when you were
14:23:36 25 telling me about the -- the building in the

14:23:41 1 middle of Deposition Exhibit 6 from your 2012
14:23:43 2 deposition, that little white speck that you
14:23:46 3 said was a building behind the tree, that
14:23:48 4 building now appears in Deposition Exhibit 8
14:23:51 5 from your 2012 deposition, you have a much
14:23:53 6 better view of it, is that correct?

14:23:55 7 A. Correct.

14:23:55 8 Q. All right. And I don't recall
14:24:00 9 whether I asked you to mark that building on
14:24:05 10 Exhibit 4, but can you show me where that
14:24:09 11 building is on Exhibit 4 and I'll --

14:24:12 12 A. (Indicating.)

14:24:13 13 Q. Okay. Now, hold on. Let's get
14:24:15 14 it -- you've got 4, so mark that as number
14:24:18 15 five.

14:24:18 16 A. (Indicating.)

14:24:21 17 Q. And you've now marked the number
14:24:23 18 five in a black circle with an arrow that's
14:24:27 19 showing the building that is depicted on
14:24:30 20 Deposition Exhibit Number 8 from your 2012
14:24:33 21 deposition, is that correct?

14:24:33 22 A. Yes.

14:24:33 23 Q. All right. Good. Looking now at
14:24:41 24 the building that's depicted in Deposition
14:24:46 25 Exhibit 9 from your 2012 deposition, do you

14:24:48 1 recognize that as one of the buildings that was
14:24:49 2 painted by you and others, I assume, over a
14:24:55 3 period of years at the dump?

14:24:56 4 MR. ROMINE: Same objection.

14:24:57 5 THE WITNESS: Yes.

14:24:58 6 BY MR. EDDY:

14:24:58 7 Q. And is that building -- it appears
14:25:05 8 red in this photograph, correct?

14:25:07 9 A. Yes.

14:25:08 10 Q. Is that building -- was that a
14:25:10 11 yes?

14:25:10 12 A. Yes.

14:25:11 13 Q. Okay. Was that building one of
14:25:12 14 the ten buildings that you pointed out to me
14:25:14 15 on -- and marked in yellow and red on Exhibit
14:25:18 16 5?

14:25:18 17 MR. ROMINE: Same objection.

14:25:19 18 THE WITNESS: Correct.

14:25:19 19 BY MR. EDDY:

14:25:20 20 Q. Great. And can you show me on
14:25:23 21 Exhibit 4 where that building is and put in a
14:25:26 22 number six in a circle with an arrow to the
14:25:30 23 building?

14:25:30 24 A. (Indicating.)

14:25:36 25 Q. The photograph that was marked as

14:25:41 1 Deposition Exhibit 10 at your 2012 deposition
14:25:42 2 is just another photograph from another --
14:25:46 3 another angle of that red building that is
14:25:48 4 shown on Exhibit 9 and that you have marked
14:25:52 5 with number six on Exhibit 4 today, is that
14:25:54 6 correct?

14:25:54 7 MR. ROMINE: Same objection.

14:25:55 8 THE WITNESS: Correct.

14:25:56 9 BY MR. EDDY:

14:25:56 10 Q. The deposition Exhibit 11 from
14:25:58 11 your 2012 deposition is again a photograph of
14:26:02 12 the same red building that is depicted in the
14:26:07 13 prior two photographs --

14:26:07 14 MR. ROMINE: Same objection.

14:26:08 15 BY MR. EDDY:

14:26:08 16 Q. -- correct?

14:26:09 17 A. Correct.

14:26:10 18 Q. All right. Now, I take it that
14:26:21 19 with all this building painting that was going
14:26:23 20 on with the paint that came in from the site,
14:26:26 21 that more than one person would be engaged in
14:26:29 22 painting those buildings at any one time?

14:26:31 23 A. Oh, yeah.

14:26:31 24 MR. ROMINE: Same objection.

14:26:33 25 BY MR. EDDY:

14:26:33 1 Q. Okay. You told us yesterday that
14:26:40 2 there was at least one occasion where you ran
14:26:44 3 out of paint that you and others had aggregated
14:26:49 4 together to paint these buildings and that you
14:26:53 5 had to go back to one -- to the
14:26:54 6 Sherwin-Williams store to get more paint to
14:26:58 7 match that color. Do you recall that
14:27:00 8 testimony?

14:27:00 9 A. Yes, I do.

14:27:02 10 Q. Okay. Did that happen more than
14:27:03 11 once?

14:27:05 12 A. Yes.

14:27:05 13 Q. About how many times, to your
14:27:07 14 knowledge, did that happen?

14:27:09 15 A. Well, I would say three or four
14:27:15 16 times.

14:27:15 17 Q. Okay. Over how many years?

14:27:17 18 A. Two years.

14:27:21 19 Q. Do you recall what -- what years
14:27:24 20 and what decade that you were speaking of?

14:27:29 21 A. '72 and '73.

14:27:32 22 Q. Okay. And you mentioned a store
14:27:35 23 on Patterson Road. Was that the store that you
14:27:40 24 went to, the Sherwin-Williams store on
14:27:41 25 Patterson Road?

14:27:41 1 A. Correct.

14:27:42 2 Q. Okay. You mentioned yesterday a
14:27:45 3 conversation with the store manager. Is that
14:27:48 4 the store manager that on those occasions
14:27:51 5 you've just told me about that you would go
14:27:53 6 back and try to match paint to finish the
14:27:57 7 buildings because you had run out of paint that
14:28:00 8 had been aggregated over a period of time from
14:28:03 9 paint that had come into the site, is that
14:28:05 10 correct?

14:28:05 11 A. Correct.

14:28:05 12 Q. All right. And the only reason
14:28:07 13 for going to the Sherwin-Williams store to get
14:28:10 14 more paint to match the paint that you had
14:28:14 15 aggregated together is because you would run
14:28:15 16 out of that paint?

14:28:24 17 A. Something to be added, but I'll
14:28:26 18 say yes at this time.

14:28:27 19 Q. Okay. Did you try to use the oil
14:28:38 20 based paints that you had aggregated together
14:28:43 21 for the buildings --

14:28:43 22 MR. ROMINE: Same objection.

14:28:43 23 BY MR. EDDY:

14:28:45 24 Q. -- rather than latex?

14:28:46 25 MR. ROMINE: Same objection.

14:28:48 1 THE WITNESS: Yes.

14:28:50 2 BY MR. EDDY:

14:28:50 3 Q. What did you use the latex on?

14:28:52 4 MR. ROMINE: Same objection.

14:28:54 5 THE WITNESS: Maybe I'm confused.

14:29:01 6 Maybe -- could I tell you how it worked and me

14:29:03 7 simplify it or do you want me to --

14:29:04 8 BY MR. EDDY:

14:29:04 9 Q. No, I think it's probably best if
14:29:07 10 you respond to my questions.

14:29:08 11 A. Okay.

14:29:08 12 Q. You said there was oil based
14:29:14 13 paints in these ones, fives and quarts that
14:29:18 14 came in, some of which were half empty, a
14:29:23 15 quarter empty, three quarter empty.

14:29:25 16 In other words, they were not
14:29:28 17 complete canisters of paint, there was some
14:29:31 18 paint missing from all of these?

14:29:32 19 MR. ROMINE: Asked and answered.

14:29:33 20 BY MR. EDDY:

14:29:33 21 Q. Is that correct?

14:29:33 22 A. Correct.

14:29:34 23 Q. And by and large, were they, more
14:29:39 24 often than not, halfway empty or more than
14:29:42 25 halfway empty?

14:29:44 1 MR. ROMINE: Asked and answered.

14:29:45 2 THE WITNESS: Correct.

14:29:45 3 BY MR. EDDY:

14:29:45 4 Q. All right. And you tried to keep
14:29:49 5 the -- when you aggregated the paints together,
14:29:52 6 the quarts into the gallons, the gallons into
14:29:54 7 the fives, and then when you ran out of room in
14:29:57 8 the fives, you'd start putting them in fresh
14:30:00 9 55-gallon drums.

14:30:01 10 You would do that to, what, store
14:30:03 11 the drums on site until you needed to use them
14:30:05 12 to paint the buildings and the posts and the
14:30:07 13 fences and all that stuff?

14:30:08 14 MR. ROMINE: Same objection --

14:30:09 15 THE WITNESS: Correct.

14:30:10 16 MR. ROMINE: -- as before. Wait for
14:30:11 17 me to finish.

14:30:14 18 THE WITNESS: I'm sorry.

14:30:14 19 MR. ROMINE: Thank you.

14:30:16 20 BY MR. EDDY:

14:30:16 21 Q. That's fine. You mentioned one
14:30:45 22 gallon lids yesterday?

14:30:46 23 A. Um-hum.

14:30:47 24 Q. Is that a yes?

14:30:48 25 A. Yes. Yes.

14:30:50 1 Q. And when you would paint these
14:30:56 2 buildings, the dozer, the fencing, the diesel
14:31:02 3 containers, the posts, the gates, those things,
14:31:05 4 were you pulling paint out of a 55-gallon drum
14:31:08 5 that you had aggregated together?

14:31:10 6 MR. ROMINE: Same objection as
14:31:12 7 before. Asked and answered.

14:31:13 8 THE WITNESS: Yes.

14:31:14 9 BY MR. EDDY:

14:31:14 10 Q. Would you dip in a one gallon can
14:31:18 11 and take it off to whatever area that you were
14:31:20 12 painting? How did that work?

14:31:21 13 MR. ROMINE: Same objection as
14:31:23 14 before.

14:31:25 15 THE WITNESS: I had cleaned up a -- a
14:31:26 16 pump that was used in diesel paints that had a
14:31:30 17 crank that had a nozzle.

14:31:31 18 BY MR. EDDY:

14:31:31 19 Q. Okay. So you would pump it from
14:31:34 20 the 55-gallon drum into a smaller container and
14:31:38 21 then paint from the smaller container?

14:31:40 22 A. Right.

14:31:40 23 MR. ROMINE: Same objection.

14:31:41 24 THE WITNESS: Right.

14:31:42 25 BY MR. EDDY:

14:31:42 1 Q. Okay. All right. And then if you
14:31:48 2 were using a quart, generally I -- is it fair
14:31:52 3 to say that when you were done with the
14:31:54 4 painting job on one of these buildings, if you
14:31:56 5 were drawing it out of a 55-gallon drum, you
14:31:59 6 would use the paint in the quart or the five
14:32:02 7 gallon that you had drawn it from, those would
14:32:09 8 be empty at the time that you're done with your
14:32:10 9 painting job, correct?

14:32:11 10 MR. ROMINE: Same objection.

14:32:13 11 THE WITNESS: Yes.

14:32:13 12 BY MR. EDDY:

14:32:14 13 Q. All right. And what would you do
14:32:15 14 with those canisters, the ones or the fives
14:32:20 15 that you would paint from, after the paint job
14:32:23 16 was done and the can was empty? What would you
14:32:27 17 do with them?

14:32:30 18 A. Take them down to pier three.

14:32:33 19 Q. Tier?

14:32:34 20 A. Tier three, yeah. Tier, yeah.

14:32:36 21 Q. Okay. And do what?

14:32:38 22 A. Throw them in the -- the dump
14:32:40 23 pile.

14:32:41 24 Q. Okay. And was tier two where
14:32:46 25 they -- was that ever burned off?

14:32:48 1 A. Tier two, yes.

14:32:49 2 Q. Tier two was?

14:32:50 3 A. Yes.

14:32:50 4 Q. But you took them to tier three,
14:32:53 5 did you say?

14:32:54 6 A. Right.

14:32:54 7 Q. Okay. Did you allow the canister
14:32:56 8 to dry before you would then throw them away?

14:33:02 9 A. Yes.

14:33:03 10 Q. All right. Were any of the ones
14:33:07 11 or fives that you allowed to dry, were they
14:33:10 12 ever put in tier two and then burned off so
14:33:13 13 that the metal canister could be salvaged and
14:33:17 14 taken away by Franklin?

14:33:23 15 A. Sometimes.

14:33:24 16 Q. Did you see other employees of the
14:33:28 17 dump who would use those ones and fives that
14:33:32 18 they used to paint these buildings, when
14:33:35 19 emptied, put them in the tier for burning?

14:33:38 20 A. Bud Young.

14:33:39 21 Q. Anybody else?

14:33:41 22 A. No.

14:33:42 23 Q. Okay. You referenced the lids
14:33:50 24 from canisters being put in the burning area or
14:33:53 25 tier yesterday. Do you recall that testimony?

14:33:56 1 A. Yes.

14:33:57 2 Q. Okay. These would be metal lids?

14:34:00 3 A. Yes.

14:34:01 4 Q. And then after the burn was
14:34:03 5 completed, you mentioned also a magnet that
14:34:08 6 would be used, and, what, dragged over the area
14:34:12 7 to then pick up what metal is left from the
14:34:15 8 burn?

14:34:15 9 A. Correct.

14:34:15 10 Q. And that would include these
14:34:17 11 canister lids?

14:34:18 12 A. Correct.

14:34:18 13 Q. Okay. Did whoever was doing that
14:34:21 14 operation try to get all the salvageable metal
14:34:25 15 that was in the burn area after a burn in order
14:34:27 16 to lift it out of that area and put it in an
14:34:29 17 area for Franklin to pick up?

14:34:31 18 A. Correct.

14:34:32 19 Q. All right. Did that operator of
14:34:35 20 the magnet ever go around other tiers where
14:34:39 21 there would be metal that would be pulled out
14:34:42 22 for Franklin to salvage out of the dump?

14:34:44 23 A. Correct.

14:34:45 24 Q. All right. So that -- would that
14:34:48 25 come out of tier three where you said you put

14:34:52 1 some of the ones and fives that you were
14:34:53 2 finished with after painting the buildings?

14:34:54 3 A. No.

14:34:55 4 Q. Okay.

14:34:56 5 A. Tier three was the bury pile.

14:34:59 6 Q. Okay. All right. Did you do any
14:35:30 7 painting of the buildings in the 1960s as
14:35:34 8 opposed to --

14:35:34 9 MR. ROMINE: Objection. Same
14:35:35 10 objection as before.

14:35:36 11 BY MR. EDDY:

14:35:36 12 Q. -- as opposed to the early 1970s
14:35:39 13 that you told me about?

14:35:42 14 A. The '60s was more of the tractor,
14:35:47 15 dozer, the posts and fence. I think the first
14:35:50 16 time I painted the buildings was '72, I think.

14:35:53 17 Q. Okay. Were the other folks, other
14:35:57 18 employees at the dump, were they painting the
14:36:00 19 buildings back in the '60s?

14:36:02 20 MR. ROMINE: Same objection.

14:36:03 21 THE WITNESS: No.

14:36:03 22 BY MR. EDDY:

14:36:04 23 Q. No. With respect to the material
14:36:58 24 that came -- you believe came from a
14:37:02 25 Sherwin-Williams location to the dump, you

14:37:05 1 referred to there being -- their coming there
14:37:08 2 in white vans.

14:37:09 3 A. Correct.

14:37:10 4 Q. Do you recall that testimony?

14:37:11 5 A. Correct.

14:37:11 6 Q. Were these panel vans?

14:37:13 7 A. Correct.

14:37:14 8 Q. Did they open by the side, like a
14:37:18 9 slider door from the back?

14:37:21 10 A. Both.

14:37:47 11 Q. To your knowledge, did most of the
14:37:51 12 material that came in for Sherwin-Williams to
14:38:00 13 the site that you've told us about, come in
14:38:03 14 from Patterson Road?

14:38:07 15 A. I don't know that.

14:38:09 16 Q. Okay. There's no way for you to
14:38:11 17 estimate it?

14:38:13 18 A. No.

14:38:13 19 Q. All right. I take it, as you sit
14:38:21 20 here today, you're unable to tell us the volume
14:38:24 21 of liquid paints that came in these ones, fives
14:38:27 22 and quarts from any painting company that ended
14:38:32 23 up being used on buildings, fences, posts, that
14:38:36 24 sort of thing?

14:38:36 25 You're not able to estimate the

14:38:38 1 volume of that paint that was used at the site,
14:38:41 2 are you?

14:38:41 3 A. No.

14:38:41 4 Q. In terms of gallons or weight or
14:38:44 5 anything like that, is that true?

14:38:46 6 A. True.

14:38:46 7 Q. You did some work rehabbing HUD
14:38:49 8 homes, is that correct?

14:38:50 9 MR. ROMINE: Same objection as
14:38:51 10 before. Asked and answered.

14:38:52 11 THE WITNESS: Correct.

14:38:52 12 BY MR. EDDY:

14:38:53 13 Q. All right. When did you start
14:38:54 14 that?

14:38:54 15 MR. ROMINE: Same objection as
14:38:55 16 before.

14:38:59 17 THE WITNESS: 1969.

14:39:02 18 BY MR. EDDY:

14:39:02 19 Q. And when did you end doing that?

14:39:03 20 MR. ROMINE: Same objection as
14:39:05 21 before.

14:39:06 22 THE WITNESS: '73.

14:39:11 23 BY MR. EDDY:

14:39:11 24 Q. Okay. Was any of the paint that
14:39:15 25 was ever brought into the dump from any of the

14:39:19 1 sources of paint that came into the dump ever
14:39:21 2 used in the HUD rehabbing that you did?

14:39:27 3 A. Sometimes.

14:39:28 4 Q. Okay. You -- you would use -- you
14:39:30 5 would have used some of the paint that came in?

14:39:32 6 A. Correct.

14:39:33 7 Q. You -- you, yourself?

14:39:34 8 A. Correct.

14:39:35 9 Q. Correct?

14:39:35 10 A. Um-hum.

14:39:36 11 Q. And who did you do that rehabbing
14:39:40 12 with again?

14:39:41 13 MR. ROMINE: Same objection as
14:39:42 14 before.

14:39:43 15 THE WITNESS: Be my father, Cyril
14:39:46 16 Grillot.

14:39:46 17 BY MR. EDDY:

14:39:46 18 Q. Okay. Anybody else? Any of the
14:39:50 19 uncles?

14:39:50 20 A. No.

14:39:50 21 Q. Okay. It was just -- the HUD
14:39:53 22 rehabbing operation was something you and your
14:39:56 23 dad did?

14:39:57 24 A. Correct.

14:39:57 25 MR. ROMINE: Same objection as

14:39:57 1 before. Asked and answered.

14:39:59 2 THE WITNESS: Oh, sorry.

14:40:00 3 BY MR. EDDY:

14:40:01 4 Q. And in terms of the use of paint
14:40:04 5 that came into the dump from a source of paint
14:40:08 6 offsite, would the same operation apply that
14:40:12 7 you would -- that the paint that's used in the
14:40:14 8 HUD rehabbing would have been aggregated from
14:40:18 9 quarts, gallons and fives into their larger
14:40:22 10 containers, and then from the larger
14:40:25 11 containers, you would use or take paint from
14:40:27 12 that to go offsite and use in the HUD
14:40:30 13 rehabbing?

14:40:31 14 A. No.

14:40:32 15 Q. How did it work?

14:40:38 16 A. If white paint came or like a
14:40:41 17 cream color, then I would save it for my
14:40:44 18 personal or Dad's use, and then Alcine, he
14:40:51 19 would use some of it for his own buildings.

14:40:56 20 Q. Offsite?

14:40:58 21 A. Offsite.

14:40:59 22 Q. Okay. What colors did he use?

14:41:01 23 A. Some whites, and the oil bases
14:41:11 24 were used for the metal building. He had a
14:41:13 25 metal building, so we used oil for the metal

14:41:18 1 buildings, and he had one, I think.

14:41:19 2 Q. Okay. Where was that located? Do
14:41:21 3 you have an address?

14:41:24 4 A. Right across from Fickert's. I
14:41:34 5 think that's Dryden Road, Springboro Pike, one
14:41:36 6 of the two.

14:41:37 7 Q. So you and your dad used some of
14:41:42 8 the paint that came into the dump for your HUD
14:41:45 9 home rehabbing, is that correct?

14:41:47 10 MR. ROMINE: Same objection as
14:41:48 11 before --

14:41:48 12 THE WITNESS: Correct.

14:41:49 13 MR. ROMINE: -- and asked and
14:41:49 14 answered.

14:41:50 15 BY MR. EDDY:

14:41:50 16 Q. Alcie -- Uncle Alcie used some of
14:41:52 17 the paint that came into the dump from offsite
14:41:55 18 to paint a metal building offsite that he
14:41:57 19 owned, is that correct?

14:41:58 20 MR. ROMINE: Asked and answered, and
14:41:59 21 same objection as before.

14:42:00 22 THE WITNESS: Correct.

14:42:01 23 BY MR. EDDY:

14:42:02 24 Q. Anybody else associated with the
14:42:05 25 dump that ended up using paint that came into

14:42:08 1 the dump for disposal in one fashion or another
14:42:11 2 in these quarts, in these ones and in these
14:42:14 3 fives that was used at other locations?

14:42:18 4 A. Yes.

14:42:19 5 Q. Who?

14:42:20 6 A. Kenneth Grillot.

14:42:20 7 Q. Okay.

14:42:22 8 A. Uncle Kenny.

14:42:22 9 Q. And did he have more than one
14:42:24 10 building offsite or just one?

14:42:29 11 A. A couple.

14:42:29 12 Q. Okay. Where were they located?

14:42:31 13 A. In Beavercreek.

14:42:32 14 Q. Do you have an address for either
14:42:34 15 one of them?

14:42:35 16 A. No. No. No.

14:42:38 17 Q. No. What kind of buildings were
14:42:41 18 they?

14:42:43 19 A. A couple barns and a house.

14:42:48 20 Q. Did you ever provide any of this
14:42:51 21 paint to -- that came into the dump from
14:42:53 22 offsite to friends and acquaintances and -- who
14:42:56 23 would might have a need for paint?

14:42:58 24 A. If I did, I don't recall.

14:43:01 25 Q. Okay. Do you know whether any of

14:43:02 1 the other employees did or whether Uncle Alcine
14:43:05 2 did or whether your dad did?

14:43:09 3 A. Doyle Roberson, I think, got some
14:43:17 4 paint.

14:43:17 5 Q. Can you tell us how many HUD
14:43:25 6 buildings you and your dad rehabbed over a
14:43:28 7 period of years?

14:43:29 8 MR. ROMINE: Same objection as
14:43:32 9 before.

14:43:32 10 THE WITNESS: They were houses and we
14:43:34 11 purchased six altogether.

14:43:35 12 BY MR. EDDY:

14:43:35 13 Q. Okay. Would you use the paint
14:43:36 14 that came into the dump from sources outside
14:43:42 15 the dump to paint both the interior and
14:43:45 16 exterior of the HUD homes?

14:43:47 17 A. Yes.

14:43:48 18 Q. And do you know whether the
14:43:57 19 building -- I think it was just one building
14:43:59 20 that -- that Uncle Alcine had?

14:44:01 21 A. Two.

14:44:02 22 Q. Two. Did he --

14:44:02 23 A. Two -- two and a house.

14:44:05 24 Q. Two and a house. Okay. And the
14:44:10 25 two buildings and the house that Uncle Alcine

14:44:13 1 had that he used the paint that had come into
14:44:15 2 the dump to paint those buildings, did he paint
14:44:18 3 both the interior and exterior of those
14:44:22 4 buildings and the house, to your knowledge?

14:44:23 5 A. I don't know.

14:44:24 6 Q. Okay. Do you know that he used
14:44:26 7 them on the exterior of the two buildings and
14:44:29 8 the house?

14:44:30 9 A. Correct.

14:44:30 10 Q. You're just not sure about the
14:44:30 11 interior?

14:44:30 12 A. Correct.

14:44:34 13 Q. Fair enough. And then the -- you
14:44:37 14 say it was two buildings that Kenneth had?

14:44:42 15 A. It's two barns and a house.

14:44:44 16 Q. And if I asked you this a moment
14:44:46 17 ago, I apologize, did he use it for both the
14:44:48 18 exterior of the barns and the house as well as
14:44:51 19 the interior?

14:44:52 20 A. I don't know that.

14:44:53 21 Q. Do you know that he used them on
14:44:55 22 the outside but not the inside?

14:44:58 23 A. Correct.

14:44:58 24 Q. All right. And then do you know
14:45:04 25 what became of those canisters of paint that

14:45:07 1 were used on all those other offsite buildings,
14:45:12 2 homes, barns, after the painting was done
14:45:17 3 offsite, how those canisters were disposed
14:45:19 4 of?

14:45:19 5 A. I don't know.

14:45:33 6 Q. Are you able to tell me the number
14:45:40 7 of one gallon -- empty one gallon canisters of
14:45:46 8 paint from any source, whether it be Durrel,
14:45:51 9 PPG or Sherwin-Williams, that were actually
14:45:54 10 physically disposed of on the site?

14:45:57 11 MR. ROMINE: Same objection as
14:45:59 12 before.

14:45:59 13 THE WITNESS: No.

14:46:01 14 BY MR. EDDY:

14:46:01 15 Q. And would your answer be same for
14:46:03 16 the -- the five gallon canisters as well?

14:46:06 17 MR. ROMINE: Same objection as
14:46:07 18 before.

14:46:08 19 THE WITNESS: Correct.

14:46:22 20 BY MR. EDDY:

14:46:23 21 Q. When you said yesterday that you
14:46:27 22 had some recollection of the Sherwin-Williams
14:46:31 23 van dropping off materials to be disposed of at
14:46:37 24 the site from Patterson Road, you said, I
14:46:41 25 think, it was two times a week. Do you recall

14:46:43 1 that testimony?

14:46:44 2 A. Correct.

14:46:44 3 Q. And you've been asked a lot of
14:46:47 4 questions by a lot of lawyers here about how
14:46:51 5 often various entities were -- had drop offs,
14:46:56 6 if you will, and is that from your memory from
14:47:05 7 when you were a teenager as opposed to when you
14:47:08 8 were eight to ten years old or a teenager?

14:47:14 9 I guess what I'm trying to get at
14:47:16 10 is, how far back does this memory of yours go?

14:47:21 11 Are you really able to tell us
14:47:22 12 here 50 years since you were ten -- eight, ten
14:47:30 13 years old, how many times these folks were
14:47:32 14 coming and making drop offs?

14:47:35 15 MR. ROMINE: Objection. Asked and
14:47:35 16 answered.

14:47:40 17 THE WITNESS: I don't know how to
14:47:41 18 define an answer.

14:47:44 19 BY MR. EDDY:

14:47:44 20 Q. Is that because your memory is
14:47:50 21 hazy at times?

14:47:53 22 A. No. No, not at all.

14:48:04 23 Q. I want to go over some general
14:48:07 24 questions here. At the time of your 2012
14:48:12 25 deposition, you -- you told the lawyers there

14:48:13 1 that you were on Traz -- Trazodone as well as
14:48:19 2 Celexa, and an unnamed blood pressure
14:48:23 3 medication. Do you recall that testimony?

14:48:26 4 A. Yes, I do.

14:48:27 5 Q. Okay. The Trazodone, do you
14:48:32 6 understand that to be a medication prescribed
14:48:34 7 for psychiatric problems, such as depression?

14:48:39 8 A. It started out that way.

14:48:41 9 Q. Okay. It's got an off label use
14:48:43 10 for people with sleep problems.

14:48:45 11 A. Correct.

14:48:45 12 Q. And that's why you were using it?

14:48:47 13 A. Correct.

14:48:48 14 Q. Can you tell me the number of
14:48:49 15 years you have been on Trazodone?

14:48:53 16 A. I started in '03.

14:48:55 17 Q. Okay. And you take it every day
14:48:57 18 then?

14:48:57 19 A. Every night.

14:48:58 20 Q. Every night. The hundred
14:49:01 21 milligrams?

14:49:01 22 A. Correct.

14:49:02 23 Q. Have you been told by your
14:49:11 24 physician that that medication is associated
14:49:15 25 with memory impairment?

14:49:18 1 A. No.

14:49:18 2 Q. The Celexa that you were on, how
14:49:24 3 long were you on that at the time of your 2012
14:49:29 4 deposition?

14:49:29 5 A. I started that November 18th,
14:49:36 6 2008.

14:49:36 7 Q. And that is not one of the
14:49:40 8 medications that you said you're on as of
14:49:40 9 today?

14:49:42 10 A. Correct.

14:49:42 11 Q. So when did you stop taking Celexa
14:49:45 12 between your 2012 deposition and today?

14:49:49 13 A. I think a year ago.

14:49:53 14 Q. Okay. Was that per doctor's
14:49:56 15 orders or did you take yourself off of it?

14:50:00 16 A. Actually from the pharmacist. No,
14:50:02 17 a doctor did tell me, yes. Yes.

14:50:04 18 Q. Were you -- and now Celexa, as I
14:50:09 19 understand it, is also prescribed for
14:50:12 20 psychiatric conditions, including depression?

14:50:15 21 A. Correct.

14:50:15 22 Q. Is that why you were prescribed
14:50:18 23 Celexa?

14:50:19 24 A. Yes, at the time.

14:50:21 25 Q. Who was your doctor at the time?

14:50:23 1 A. It was a hospital doctor in the
14:50:32 2 ward that's in --

14:50:33 3 Q. Where -- what ward and what city
14:50:35 4 and what hospital?

14:50:37 5 A. It was Goldsboro Medical Center or
14:50:44 6 Medical Hospital. I was on the -- their
14:50:47 7 alcohol and drug rehab psychiatric ward.

14:50:50 8 Q. How long were you hospitalized for
14:50:53 9 that?

14:50:54 10 A. Roughly ten days.

14:50:57 11 Q. And that was in 2008?

14:50:58 12 A. Yes.

14:50:59 13 Q. In North Carolina?

14:51:00 14 A. Yes.

14:51:00 15 Q. Have you been hospitalized since
14:51:03 16 then?

14:51:04 17 A. Yes.

14:51:05 18 Q. How many occasions?

14:51:07 19 A. Probably six times.

14:51:12 20 Q. For what conditions?

14:51:17 21 A. Mostly because I was having
14:51:19 22 problems with what I'm experiencing right now.

14:51:22 23 Q. Pancreatitis?

14:51:23 24 A. Correct.

14:51:24 25 Q. Were all of those six occasions

14:51:27 1 for pancreatitis or were any of them for any
14:51:30 2 other medical condition?

14:51:32 3 A. A couple injuries, and then one
14:51:37 4 they were just probing.

14:51:38 5 Q. Probing for what?

14:51:40 6 A. To see why I was having so much
14:51:43 7 discomfort.

14:51:46 8 Q. Were any of them related to any
14:51:47 9 psychiatric conditions?

14:51:48 10 A. No.

14:51:48 11 Q. But when you were hospitalized in
14:51:54 12 2008, was that for a bipolar condition?

14:51:56 13 A. That was a -- what I was diagnosed
14:51:58 14 at that -- at that time.

14:51:59 15 Q. Have you ever been diagnosed as
14:52:00 16 being depressed?

14:52:05 17 A. No, not really.

14:52:08 18 Q. The blood pressure medication that
14:52:10 19 you were on at the time of your deposition in
14:52:13 20 2012, do you recall what it was?

14:52:15 21 A. No.

14:52:15 22 Q. Does the name Inderal ring a bell?

14:52:19 23 A. No.

14:52:19 24 Q. When did you stop taking the blood
14:52:27 25 pressure medication?

14:52:27 1 A. It was around 2012, the end -- the
14:52:32 2 end of the year, something like that.

14:52:33 3 Q. You mentioned yesterday that you
14:52:36 4 had some bad memories about the University of
14:52:40 5 Dayton, some hostility or anger associated with
14:52:43 6 the University of --

14:52:43 7 A. Bad feelings.

14:52:44 8 Q. Okay. What does that arise out
14:52:46 9 of, just generally?

14:52:50 10 A. The tradition and action that was
14:52:54 11 taken and what happened with my father's
14:52:59 12 estate.

14:52:59 13 Q. What did the University of Dayton
14:53:01 14 have to do with what happened to your father's
14:53:01 15 estate?

14:53:07 16 A. I expected some help after all
14:53:11 17 his -- his generosity.

14:53:18 18 Q. Your father had -- had given a lot
14:53:20 19 to the university over the years, he
14:53:22 20 experienced some bad times associated with the
14:53:25 21 dump and didn't get some help that he was
14:53:27 22 hoping to get from the university, and that's
14:53:28 23 the source of that pain and anger for you?

14:53:32 24 A. That, and the fact that when
14:53:37 25 Horace's wife donated the John Bonevitz Center,

14:53:42 1 whatever it's called, did -- the stocks and
14:53:44 2 bonds that came from my father's estate was --
14:53:46 3 for that building was put under the Boesch
14:53:50 4 name.

14:53:50 5 Q. That was put what?

14:53:52 6 A. Put under the Boesch name.

14:53:53 7 Q. Instead of?

14:53:55 8 A. Grillot/Boesch.

14:53:56 9 Q. All right. Okay. Thank you. I
14:54:01 10 don't -- I wanted to find out what that was
14:54:03 11 about. I didn't mean to drag you through what
14:54:06 12 were hard emotional times for you.

14:54:08 13 A. That's okay. Can I take a break?

14:54:09 14 Q. Sure.

14:54:10 15 (Pause in proceedings.)

15:02:41 16 MR. EDDY: Can we go back on the
15:02:42 17 record?

15:02:43 18 THE COURT REPORTER: Yes.

15:02:43 19 BY MR. EDDY:

15:02:44 20 Q. Mr. Grillot, are you ready to
15:02:45 21 continue your deposition now?

15:02:48 22 A. Yes, I am.

15:02:49 23 Q. Are you feeling all right?

15:02:50 24 A. Yeah.

15:02:50 25 Q. Okay. Good. I have to ask you

15:02:53 1 this: While we were on a break, did you have
15:02:56 2 any conversations outside this room with Mr.
15:02:56 3 Romine here --

15:02:56 4 A. No.

15:03:01 5 Q. -- or with any other lawyer
15:03:04 6 representative of the plaintiffs in this case?

15:03:07 7 A. Yes.

15:03:07 8 Q. Who did you talk to?

15:03:09 9 A. Jeff Ireland.

15:03:12 10 Q. And he's an attorney here?

15:03:14 11 A. Yeah.

15:03:15 12 Q. Okay. And can you recount me what
15:03:19 13 that conversation was?

15:03:19 14 A. He said he had to leave, that his
15:03:26 15 co-attorney was going to be here, nice to see
15:03:28 16 you again and good luck.

15:03:30 17 Q. Was there any questions or banter
15:03:36 18 about -- in terms of the testimony that you've
15:03:37 19 given here today?

15:03:39 20 A. No.

15:03:39 21 MR. ROMINE: Let me just interject,
15:03:41 22 because Mr. Grillot may not know that Jeff Ireland
15:03:43 23 does not represent the plaintiffs.

15:03:45 24 MR. EDDY: He's not what?

15:03:46 25 MR. ROMINE: He doesn't represent the

15:03:48 1 plaintiffs.

15:03:48 2 MR. EDDY: Oh, oh.

15:03:48 3 MR. ROMINE: Mr. Ireland and I are
15:03:51 4 not representing the same people, the same
15:03:52 5 companies.

15:03:54 6 BY MR. EDDY:

15:03:54 7 Q. Okay.

15:03:54 8 A. Okay.

15:03:54 9 Q. My question was, had you talked to
15:03:57 10 any of the lawyers for the plaintiffs in this
15:03:58 11 lawsuit?

15:03:59 12 A. No.

15:04:00 13 Q. All right. You were asked some
15:04:14 14 questions earlier today about some meals you
15:04:20 15 had and who paid for the meals and your travels
15:04:24 16 for these depositions that you've had
15:04:26 17 yesterday, today, as well as questions about
15:04:29 18 those issues going back to the 2012 deposition.

15:04:33 19 Have you directly or indirectly
15:04:38 20 received any checks, bank checks, from anybody
15:04:46 21 representing the plaintiffs, including their
15:04:48 22 investigator, who you've talked to?

15:04:50 23 A. Yes.

15:04:51 24 Q. Okay. How many checks have you
15:04:53 25 received?

15:04:55 1 A. Two.

15:04:56 2 Q. And when did you receive them?

15:04:59 3 A. The spring of -- it must have been

15:05:04 4 March or April of 2012. And then I can't

15:05:13 5 remember when I went back home, but it was, I

15:05:16 6 think, within that year.

15:05:17 7 Q. Okay. Do you recall how much each

15:05:20 8 check was for?

15:05:23 9 A. Both of them, I believe, were the

15:05:26 10 same, and I think they were like five hundred

15:05:28 11 and forty some dollars.

15:05:30 12 Q. Okay. And they were cashed, I

15:05:32 13 assume? They were cashed, you cashed them or

15:05:35 14 deposited them?

15:05:35 15 A. Yes.

15:05:36 16 Q. Okay. And has anyone received any

15:05:42 17 checks from any representative of the

15:05:45 18 plaintiffs on your behalf?

15:05:46 19 A. No.

15:05:46 20 Q. Has your girlfriend, who you've

15:05:50 21 stayed with up here, has she received any kind

15:05:53 22 of monetary payments from anybody representing

15:05:55 23 the plaintiffs in this case?

15:05:57 24 A. No.

15:05:58 25 Q. Have you received any cash from

15:06:10 1 any representative of the plaintiffs? Not a
15:06:12 2 check, but cash.

15:06:13 3 A. No.

15:06:18 4 MR. EDDY: Is everybody with us?

15:06:24 5 MS. WRIGHT: Yes.

15:06:24 6 MR. SHARETT: Yes, I'm here. Anthony
15:06:25 7 Sharett, I'm here.

15:06:28 8 MR. EDDY: Very good. Thank you.

15:06:30 9 BY MR. EDDY:

15:06:30 10 Q. Yesterday you were asked some
15:07:02 11 questions about your not having received a
15:07:06 12 subpoena to require your appearance at the 2012
15:07:10 13 deposition or today. Do you recall that --

15:07:12 14 A. Yes.

15:07:13 15 Q. -- those questions and your
15:07:16 16 answers from yesterday?

15:07:17 17 A. Yes.

15:07:18 18 Q. All right. And you were asked in
15:07:21 19 general terms, you know, since you didn't get a
15:07:24 20 subpoena requiring your appearance, you know,
15:07:27 21 why you volunteered to come in without a
15:07:30 22 subpoena that would require your appearance.

15:07:33 23 And you said, and I'm paraphrasing
15:07:37 24 here, but you referenced not being a Christian,
15:07:39 25 but that you quoted a -- a Bible passage

15:07:41 1 about -- I just wrote this down -- the ruin of
15:07:44 2 the earth?

15:07:44 3 A. Right.

15:07:45 4 Q. And you indicated that -- that you
15:07:49 5 felt some guilt in terms of your family name
15:07:52 6 being associated with the South Dayton Dump.
15:07:56 7 Do you recall that testimony?

15:07:57 8 A. Correct.

15:07:58 9 Q. All right. And you also mentioned
15:08:03 10 Agenda 21 and something about clearing --
15:08:07 11 clearing your conscience?

15:08:13 12 A. Yes.

15:08:15 13 Q. Do you have feelings of guilt with
15:08:19 14 respect to the South Dayton Dump?

15:08:21 15 MR. ROMINE: Asked and answered.

15:08:26 16 THE WITNESS: Yes.

15:08:27 17 BY MR. EDDY:

15:08:27 18 Q. Okay. When did you first start
15:08:29 19 having those feelings?

15:08:36 20 A. I guess very young.

15:08:39 21 Q. Well, you were there as early as
15:08:42 22 eight years of age, and then on and off until
15:08:47 23 your late 20s, 27, something like that, is that
15:08:50 24 right?

15:08:50 25 A. Correct.

15:08:51 1 Q. How early were those feelings of
15:08:51 2 guilt?

15:08:55 3 A. Like I said, early on.

15:08:57 4 Q. Even before the age of ten?

15:09:00 5 A. Yeah.

15:09:00 6 Q. Okay. And were those generated by
15:09:04 7 you, internally to you, or were these generated
15:09:07 8 by comments from other people about the dump
15:09:12 9 and your being associated with it through your
15:09:14 10 family?

15:09:14 11 MR. ROMINE: I'm going to object to
15:09:17 12 the line of questioning on relevance.

15:09:21 13 THE WITNESS: I'm -- could you
15:09:26 14 restate it maybe one more time?

15:09:26 15 BY MR. EDDY:

15:09:28 16 Q. Are these feelings of guilt that
15:09:29 17 you have told us that started fairly young in
15:09:33 18 your life about being associated with the dump,
15:09:36 19 were they generated out of your own internal
15:09:40 20 moral sense, if you will?

15:09:42 21 Or were they feelings of guilt
15:09:43 22 that were sort of put upon you because of
15:09:47 23 comments of third parties about the dump and
15:09:49 24 you being associated with it?

15:09:50 25 MR. ROMINE: Same objection.

15:09:50 1 BY MR. EDDY:

15:09:51 2 Q. In other words, if there was
15:09:52 3 something bad your family being associated with
15:09:54 4 the dump that people told you about, and,
15:09:56 5 therefore, you had some feelings of guilt
15:09:59 6 associated with what you were told.

15:10:00 7 MR. ROMINE: Same objection.

15:10:02 8 THE WITNESS: The first would have
15:10:03 9 came out of -- when I was youngest out of -- I
15:10:09 10 thought it was sad that -- that -- so much waste.

15:10:20 11 Then later in years, it was because
15:10:23 12 of your second comment, that as I learned
15:10:28 13 different things that I found through studying
15:10:31 14 that the -- things weren't -- and then guilt.

15:10:35 15 BY MR. EDDY:

15:10:35 16 Q. I'm sorry, that things weren't
15:10:37 17 what?

15:10:38 18 A. That things weren't handled the
15:10:44 19 way I thought it should be done, and -- and
15:10:49 20 then the guilt was when I was like pouring out
15:10:52 21 stuff out of those cani -- like 55-gallon
15:10:56 22 drums, I thought what I am doing, you know.

15:11:04 23 Q. What is Agenda 21?

15:11:07 24 MR. ROMINE: Objection. Relevance.

15:11:09 25 THE WITNESS: You don't have all day,

15:11:10 1 but do you want me to generalize it?

15:11:13 2 BY MR. EDDY:

15:11:13 3 Q. Briefly.

15:11:13 4 A. Huh?

15:11:14 5 Q. Briefly can you tell me what

15:11:16 6 Agenda 21 is? You -- you mentioned it

15:11:17 7 yesterday, and I'd like to know what it is.

15:11:18 8 A. Agenda 21 is -- basically was

15:11:24 9 brought up in Rio de Janeiro, I think it is,

15:11:29 10 and Clinton signed a -- or signed in to Agenda

15:11:35 11 21 to better the earth.

15:11:39 12 Q. Are you a member of any

15:11:50 13 organization or associated with any

15:11:52 14 organization in the State of Ohio, Michigan or

15:11:59 15 North Carolina, Agenda 21 Ohio, Agenda 21 North

15:12:00 16 Carolina? Are you involved in any

15:12:02 17 organizations associated with Agenda 21?

15:12:05 18 A. No.

15:12:05 19 Q. This is just something you've read

15:12:07 20 about on your own?

15:12:09 21 A. Correct.

15:12:09 22 Q. And Agenda 21 is about sustainable

15:12:12 23 development in part?

15:12:13 24 A. Correct.

15:12:21 25 Q. And what does -- you believe that

15:12:27 1 your testimony in this case is part of a
15:12:32 2 clearing of your conscience with respect to
15:12:36 3 what went on at the dump and the principles
15:12:39 4 associated with Agenda 21?

15:12:41 5 A. Correct.

15:12:57 6 Q. The reading that you've done about
15:12:59 7 Agenda 21, is this all on-line or have you
15:13:02 8 purchased any written materials and books and
15:13:05 9 pamphlets, whatever that you've read about?

15:13:07 10 MR. ROMINE: Objection as to
15:13:08 11 relevance.

15:13:11 12 THE WITNESS: It started by
15:13:16 13 literature that I had read and then a couple
15:13:22 14 meetings I went to, and then on-line, and then
15:13:29 15 talking to various individuals around.

15:13:34 16 And at one point, I was convinced of
15:13:37 17 one aspect of it when I was working down in
15:13:39 18 Florida last year and talked to the next door
15:13:42 19 neighbor.

15:13:43 20 BY MR. EDDY:

15:13:43 21 Q. Do you have any of these books or
15:13:45 22 pamphlets that you've read at home?

15:13:47 23 A. Yes.

15:13:47 24 Q. Okay. Can you give me the titles
15:13:50 25 of them if I wanted to read them and understand

15:13:54 1 better your involvement with that?

15:13:57 2 A. Well, one would be the Watchtower
15:14:04 3 magazine out of Brooklyn, New York. The New
15:14:08 4 American. The John Birch Society. I think
15:14:21 5 that's it.

15:14:22 6 Q. What is the New American, is that
15:14:23 7 a publication, a periodical?

15:14:25 8 A. Correct.

15:14:27 9 Q. Okay. And the meetings -- what
15:14:29 10 were these meetings that you went to that
15:14:32 11 related to Agenda 21?

15:14:36 12 A. It actually wasn't about Agenda
15:14:38 13 21, but it was in the same aspect of it.

15:14:41 14 Q. Which is what?

15:14:42 15 A. It was John Birch's Society.

15:14:45 16 Q. Okay. Where -- is that here in
15:14:46 17 Ohio or down in North Carolina?

15:14:48 18 A. Here in Ohio.

15:14:50 19 Q. And when was the last time you
15:14:51 20 went to such a meeting?

15:14:54 21 A. It was in -- I think I went twice,
15:14:59 22 and it was in spring of '95, I believe.

15:15:49 23 Q. I think I'm done here. Were you a
15:16:14 24 party to the 2006 administrative order on
15:16:20 25 consent relating to the dump and the US EPA?

15:16:23 1 A. Pardon me?

15:16:24 2 Q. Were you a -- a party to the 2006
15:16:34 3 ASAOC, the administrative order on consent with
15:16:35 4 the US EPA relating to the South Dayton Dump?

15:16:39 5 A. No, I was not.

15:16:44 6 Q. Okay. You indicated that you
15:16:45 7 entered into a settlement agreement with the US
15:16:50 8 EPA?

15:16:50 9 A. Correct.

15:16:51 10 Q. What year?

15:16:56 11 A. '99, I believe.

15:16:57 12 Q. And you indicated that this had
15:17:01 13 impacted your inheritance from your father?

15:17:03 14 A. Correct.

15:17:04 15 Q. And there was -- I think you
15:17:06 16 mentioned something on the order of two hundred
15:17:09 17 thousand dollars that would have come to you as
15:17:11 18 one of the heirs actually went to the United
15:17:14 19 States government, and then after the
15:17:17 20 settlement, you got back from the government
15:17:20 21 about a hundred and forty thousand dollars, is
15:17:22 22 that correct?

15:17:22 23 A. It wasn't quite that way, but it
15:17:26 24 was close.

15:17:26 25 Q. Well, what is the way that it

15:17:28 1 worked, can you tell me that?

15:17:29 2 MR. ROMINE: Objection. It goes
15:17:31 3 beyond the scope of the direct and it rehashes
15:17:34 4 testimony from 2012 unnecessarily in violation of
15:17:36 5 Judge Rice's order.

15:17:38 6 THE WITNESS: Between our EPA -- I
15:17:41 7 call them EPA retainers, but they were EPA
15:17:44 8 attorneys that went on their own and that started
15:17:47 9 a firm here in Dayton that represented the
15:17:52 10 Boesch/Grillot estate, and they made a deal with
15:17:55 11 the EPA that our part of involvement --
15:18:02 12 involvement on the dump would be divided between
15:18:11 13 the parties of the -- Boesch, Alcine Grillot and
15:18:18 14 Leone and the heirs of the children.

15:18:18 15 BY MR. EDDY:

15:18:28 16 Q. All right. As a result of this
15:18:28 17 agreement, was your personal inheritance from
15:18:30 18 your father's estate affected?

15:18:33 19 A. Yes, it was.

15:18:36 20 Q. Okay. Was there an amount of
15:18:37 21 money that you would have gotten from the
15:18:39 22 estate that you didn't get because of the
15:18:43 23 involvement of the US EPA and the South Dayton
15:18:47 24 Dump and how it impacted your father's estate?

15:18:49 25 MR. ROMINE: Same objection.

15:18:50 1 THE WITNESS: Yes.

15:18:51 2 BY MR. EDDY:

15:18:52 3 Q. Okay. How much didn't you get
15:18:53 4 that you otherwise would have gotten?

15:18:55 5 MR. ROMINE: Same objection.

15:18:57 6 THE WITNESS: Around seventy thousand
15:18:57 7 dollars.

15:19:02 8 BY MR. EDDY:

15:19:02 9 Q. Okay. All right. I'm not sure I
15:19:04 10 said that right. If I -- am I correct then
15:19:08 11 that you have a -- what you believe to be a
15:19:14 12 personal loss to you of about seventy thousand
15:19:19 13 dollars that you did not get from your father's
15:19:22 14 estate as an inheritance because of the
15:19:24 15 settlement with the US EPA, is that correct?

15:19:26 16 MR. ROMINE: Same objection.

15:19:27 17 THE WITNESS: No.

15:19:27 18 BY MR. EDDY:

15:19:28 19 Q. All right. Could you explain to
15:19:29 20 me what you didn't get?

15:19:32 21 A. On paper or off paper?

15:19:34 22 Q. Well, let's start with on paper.

15:19:36 23 MR. ROMINE: Same objection.

15:19:38 24 THE WITNESS: Right around
15:19:44 25 five million dollars.

15:19:45 1 BY MR. EDDY:

15:19:45 2 Q. Okay. And that would have been
15:19:47 3 money in your pocket?

15:19:49 4 A. It would be split between --

15:19:52 5 Q. All the heirs?

15:19:52 6 MR. ROMINE: Objection.

15:19:53 7 THE WITNESS: -- the remaining wife
15:19:54 8 and the siblings.

15:19:54 9 BY MR. EDDY:

15:19:55 10 Q. Okay. And your -- what share of
15:19:58 11 that would you individually have gotten --

15:20:00 12 MR. ROMINE: Same objection.

15:20:01 13 BY MR. EDDY:

15:20:02 14 Q. -- do you believe?

15:20:04 15 A. A little more than a million.

15:20:07 16 Q. And you believe that to be a

15:20:11 17 million dollar loss to you that you've

15:20:13 18 sustained because of the involvement with the

15:20:15 19 US EPA?

15:20:15 20 MR. ROMINE: Same objection.

15:20:17 21 THE WITNESS: Correct.

15:20:17 22 BY MR. EDDY:

15:20:17 23 Q. All right.

15:20:18 24 A. On paper.

15:20:19 25 Q. On paper. And now off paper, what

15:20:22 1 are you referring to?

15:20:24 2 A. Some of Dad's closest friends told
15:20:31 3 us the last time they heard that --

15:20:34 4 Q. They sold the last time? I'm
15:20:35 5 not --

15:20:35 6 A. The last time I talked to some of
15:20:38 7 Dad's old acquaintances, really close, and they
15:20:41 8 had told my son that Dad had either told them
15:20:49 9 or showed them or whatever, that his net worth
15:20:52 10 was worth twelve million dollars.

15:21:11 11 Q. Have you been told in any way,
15:21:14 12 shape or form by anybody that if the plaintiffs
15:21:22 13 receive any kind of recovery in this lawsuit,
15:21:25 14 that you will get any part of it?

15:21:26 15 A. Oh, no.

15:21:27 16 Q. Either you or any of your family
15:21:29 17 members?

15:21:31 18 A. From what's going on now?

15:21:32 19 Q. Yes.

15:21:33 20 A. No. No.

15:21:36 21 MR. EDDY: I don't have anything
15:21:36 22 further. Thank you very much.

15:21:38 23 THE WITNESS: Thank you.

15:21:55 24 CROSS-EXAMINATION

15:21:55 25 BY MR. STINSON:

15:22:11 1 Q. Good afternoon, Mr. Grillot. My
15:22:12 2 name is Peter Stinson, and I represent PPG
15:22:16 3 Industries. I want to make sure before I start
15:22:18 4 that you're feeling okay to testify now?

15:22:20 5 A. Yes, sir.

15:22:21 6 Q. Okay. I want to ask you about one
15:22:24 7 of the companies you identified yesterday that
15:22:26 8 you associated with the South Dayton Dump
15:22:31 9 Landfill, a company you called Pittsburgh
15:22:33 10 Paint. Do you remember your testimony on that?

15:22:35 11 A. Yes, I do.

15:22:36 12 MR. WICK: Peter, could you speak up,
15:22:36 13 please?

15:22:38 14 MR. STINSON: Sure.

15:22:38 15 BY MR. STINSON:

15:22:39 16 Q. As I understand your career,
15:22:43 17 history at various times you've done painting,
15:22:47 18 correct?

15:22:47 19 A. Correct.

15:22:48 20 Q. And you painted for the -- in part
15:22:51 21 for the -- the A.E. Fickert Company?

15:22:51 22 A. Correct.

15:22:54 23 Q. And then you painted at other
15:22:56 24 locations as well?

15:22:58 25 A. Yes.

15:22:59 1 Q. Okay. And are you familiar with
15:23:02 2 any kind of painting operation, and I mean by
15:23:06 3 that, any manufacturing operation that
15:23:07 4 Pittsburgh Paint has in the Dayton area?

15:23:12 5 A. To my knowledge, I don't think so.

15:23:13 6 Q. Are you aware of any -- any retail
15:23:17 7 stores that were owned by Pittsburgh Paint
15:23:21 8 during the time that you were associated with
15:23:24 9 the dump?

15:23:28 10 A. All I remember is one, and I'm
15:23:30 11 strongly leaning towards Durrel, had a line, I
15:23:34 12 think, of Pittsburgh.

15:23:39 13 Q. All right. And you said Durrel.
15:23:41 14 What do you mean by that, sir?

15:23:42 15 A. Durrel was another local
15:23:46 16 manufacturing of making paint and distributing
15:23:49 17 in the Dayton area.

15:23:50 18 Q. All right. So Durrel manufactures
15:23:55 19 paint or did manufacture paint in the Dayton
15:23:56 20 area during the time that the site operated,
15:23:58 21 that's your understanding?

15:23:58 22 A. Correct.

15:23:59 23 Q. And it's also your understanding
15:24:02 24 that during that time, Durrel made a brand of
15:24:04 25 paint for Pittsburgh Paint at that location?

15:24:07 1 A. No.

15:24:08 2 Q. All right. Explain to me then the
15:24:11 3 connection between Durrel and Pittsburgh Paint
15:24:15 4 as it relates to the paint in the Dayton area.

15:24:23 5 A. That Durrel carried Pittsburgh
15:24:26 6 Paint with the name on it as a -- like a side
15:24:31 7 line in their stores.

15:24:33 8 Q. So the -- the Durrel, in its
15:24:37 9 store, sold Pittsburgh Paint that was labeled
15:24:37 10 Pittsburgh Paint?

15:24:37 11 A. Right.

15:24:41 12 Q. Did -- was that paint that was
15:24:44 13 labeled Pittsburgh Paint also labeled Durrel
15:24:46 14 paint?

15:24:46 15 A. No. No. No.

15:24:48 16 Q. So Durrel simply sold some of the
15:24:51 17 Pittsburgh brand out of its stores, that's your
15:24:52 18 understanding?

15:24:53 19 A. Yes, sir.

15:24:53 20 Q. And otherwise, you're aware of no
15:24:56 21 retail outlets -- stores in the Dayton area
15:25:02 22 that were owned by Pittsburgh Paint during the
15:25:04 23 time that the landfill operated?

15:25:07 24 A. I believe there was one on Salem
15:25:12 25 Avenue.

15:25:12 1 Q. Any others?

15:25:14 2 A. Not to my knowledge.

15:25:17 3 Q. Where is Salem Avenue?

15:25:19 4 A. Northwest of Dayton.

15:25:23 5 Q. Can you be more specific than
15:25:26 6 that?

15:25:26 7 A. It runs from downtown out to
15:25:38 8 Englewood area. It's pretty much in line with
15:25:46 9 Main Street, which would be Route 48, and Salem
15:25:49 10 is Route 49.

15:25:54 11 And I think it was -- the
15:25:57 12 cross-section would have been around
15:26:00 13 Siebenthaler area on the right side.

15:26:04 14 Q. Cross-section of Sieben --

15:26:08 15 A. Thaler.

15:26:08 16 Q. -- thaler and --

15:26:10 17 A. And Salem.

15:26:10 18 Q. -- Salem?

15:26:10 19 A. Salem Avenue.

15:26:12 20 Q. And your understanding was there
15:26:13 21 was a Pittsburgh retail outlet at that
15:26:16 22 location?

15:26:16 23 A. Correct.

15:26:17 24 Q. And during what years did that
15:26:19 25 operate?

15:26:23 1 A. '70s, I believe.

15:26:25 2 Q. Can you be more specific than
15:26:28 3 that, sir?

15:26:28 4 A. '72 to '75.

15:26:34 5 Q. So it operated at that location
15:26:36 6 for a total of three years?

15:26:40 7 A. I don't -- I just remember because
15:26:41 8 I did a lot of work out that side of town, and
15:26:44 9 I just remember seeing them open. I think I
15:26:48 10 might have bought some stuff out of there,
15:26:51 11 supplies and stuff, so --

15:26:52 12 Q. And that's when you were working
15:26:54 13 as a painter?

15:26:54 14 A. Right.

15:26:55 15 Q. And you think that was in the '72
15:26:56 16 through '75 time frame?

15:26:58 17 A. Right.

15:26:58 18 Q. Okay. Other than this Salem
15:27:00 19 Avenue location, is there any other location in
15:27:03 20 the Dayton area that -- where a paint store was
15:27:07 21 owned by Pittsburgh Paint, to your knowledge?

15:27:09 22 A. Not to my knowledge.

15:27:11 23 Q. And you're not aware of any
15:27:13 24 manufacturing operations in the Dayton area
15:27:16 25 either, are you?

15:27:17 1 A. No, sir.

15:27:18 2 Q. All right. Now, do you remember
15:27:21 3 your testimony yesterday with respect to
15:27:21 4 Pittsburgh Paint?

15:27:29 5 A. I've talked so much, sir, I
15:27:31 6 don't -- I mean, I'm sorry.

15:27:32 7 Q. I appreciate that. Okay. Well,
15:27:35 8 let me -- let me ask you, you testified -- let
15:27:38 9 me see if this jogs your memory. You testified
15:27:40 10 you associated certain waste materials that
15:27:43 11 were brought to the dump to Pittsburgh Paint.
15:27:49 12 Do you remember that --

15:27:49 13 A. Yes.

15:27:50 14 Q. -- testimony, sir? Do you know
15:27:51 15 where that -- those materials, that is, the
15:27:53 16 Pittsburgh Paint materials you testified to
15:27:55 17 yesterday, where they came from?

15:27:59 18 A. No, sir.

15:28:00 19 Q. All right. Is it your
15:28:01 20 understanding that the materials you testified
15:28:05 21 to yesterday, the -- the paint materials, the
15:28:08 22 drywall, the plaster paris, that that came from
15:28:11 23 a construction project at some offsite
15:28:15 24 location?

15:28:17 25 A. I don't remember saying that.

15:28:18 1 Q. Well, where -- let me ask you
15:28:21 2 then. You -- you associated Pittsburgh Paint
15:28:27 3 with a number of materials at the landfill
15:28:31 4 yesterday, and I understand you recall that
15:28:33 5 testimony, correct?

15:28:34 6 A. Right now vaguely, yes.

15:28:36 7 Q. Okay. Well, where did those
15:28:39 8 materials come from?

15:28:46 9 A. Like I said right now, I can't
15:28:48 10 remember.

15:28:48 11 Q. All right. Do you know whether
15:28:49 12 they came from this retail outlet on Salem
15:28:49 13 Avenue?

15:28:55 14 A. I wouldn't have that knowledge.

15:28:57 15 Q. Now, did the Salem Avenue store,
15:29:01 16 do you recall, did it sell anything other than
15:29:04 17 just paint?

15:29:07 18 A. Did they sell anything but --
15:29:08 19 other than paint?

15:29:09 20 Q. Paint, it was just a paint store?

15:29:09 21 A. Um-hum.

15:29:11 22 Q. Did they sell plaster paris, do
15:29:13 23 you recall?

15:29:13 24 A. Yes.

15:29:15 25 Q. Do you recall whether they sold

15:29:18 1 drywall?

15:29:18 2 A. Yes. And something is starting to
15:29:21 3 come back now, so I -- yes.

15:29:23 4 Q. So this drywall was sold out of --

15:29:27 5 A. Drywall powder. Not drywall --

15:29:27 6 Q. It was a powder. Okay.

15:29:28 7 A. -- drywall powder.

15:29:29 8 Q. Okay. Was sold out of this
15:29:31 9 Pittsburgh Paint retail outlet on Salem Avenue?

15:29:34 10 A. Yes.

15:29:34 11 Q. And what other material was sold
15:29:38 12 out of that outlet?

15:29:39 13 A. Ladders, paint brushes, anything
15:29:44 14 that would be used to either prep or do
15:29:48 15 painting. Spray equipment.

15:29:52 16 Q. How about skids?

15:29:59 17 MR. ROMINE: Objection. Vague.

15:29:59 18 BY MR. STINSON:

15:30:04 19 Q. We've been talking about them for
15:30:05 20 two days, skids. How about skids, did they
15:30:08 21 sell skids out of that location?

15:30:10 22 A. Well, I'm still not completely
15:30:13 23 remembering what was talked about yesterday and
15:30:17 24 what -- what -- go on. I'm sorry. Go on.

15:30:26 25 Q. Okay. I just wanted to ask you

15:30:29 1 whether skids were sold out of the Salem Avenue
15:30:32 2 outlet that you've been talking about.

15:30:34 3 A. Well, skids wouldn't be sold, no.

15:30:35 4 Q. Did you know any of the people who
15:30:47 5 worked at this Salem Avenue location?

15:30:50 6 A. No.

15:30:50 7 Q. Do you know whether they were
15:30:53 8 PPG -- whether they were Pittsburgh Paint
15:30:57 9 employees?

15:30:57 10 A. I wouldn't have that knowledge.

15:31:04 11 Q. And -- and your first time there
15:31:05 12 was in the -- this '72, '75 time frame when you
15:31:09 13 working not at the landfill, but working doing
15:31:13 14 painting?

15:31:13 15 A. Yes.

15:31:13 16 Q. All right. Yesterday you
15:31:22 17 described a drywall product that you said that
15:31:31 18 was more like a powder, as I recall, is that
15:31:34 19 right?

15:31:34 20 A. Correct.

15:31:34 21 Q. And you're talking now about that
15:31:36 22 material that was sold out of the Salem Avenue
15:31:39 23 location?

15:31:46 24 A. I believe so.

15:31:47 25 Q. And can you describe that for me?

15:31:52 1 A. The material?

15:31:53 2 Q. Yeah.

15:32:01 3 A. With most stores, I wouldn't know.

15:32:04 4 They carry various products from different

15:32:07 5 companies, or, you know, it might be made by

15:32:10 6 somebody else, but it was a bag of powder,

15:32:12 7 probably 18 inches by 12 by about three inches

15:32:20 8 thick, and one would say plaster of paris and

15:32:24 9 the other would say Vastrine (phonetic)

15:32:29 10 compound, I think is what it was.

15:32:30 11 Q. Is this -- either one of those

15:32:38 12 separate from the plaster paris material that

15:32:40 13 you described yesterday?

15:32:41 14 A. Correct.

15:32:42 15 Q. And describe what the plaster

15:32:45 16 paris material is.

15:32:46 17 A. It was in a little bit bigger bag,

15:32:48 18 probably 24 by 18 maybe 15 inches and three

15:32:52 19 inches.

15:32:52 20 Q. And who made -- do you know what

15:32:55 21 manufactured that?

15:32:55 22 A. I don't know, no.

15:32:56 23 Q. How about the drywall?

15:32:58 24 A. I don't know.

15:33:00 25 Q. How about the powder material that

15:33:02 1 you just referenced?

15:33:03 2 A. I don't know.

15:33:04 3 Q. Have you ever -- ever talked to
15:33:10 4 anybody who was employed or affiliated with
15:33:13 5 Pittsburgh Paint about the South Dayton
15:33:16 6 Landfill?

15:33:16 7 A. No, sir.

15:33:17 8 Q. Now, you testified -- or as I
15:33:28 9 understand from your testimony, sir, that there
15:33:31 10 was a fair amount of construction demolition
15:33:35 11 debris that at various times was brought into
15:33:39 12 the dump, is that correct?

15:33:40 13 A. Correct.

15:33:40 14 Q. And you described that material
15:33:42 15 as -- as drywall?

15:33:44 16 A. Yes.

15:33:44 17 Q. All right. As skids?

15:33:48 18 A. Yes.

15:33:50 19 Q. As paint materials?

15:33:54 20 A. I'm -- I'm getting a little
15:33:56 21 confused right now only because my mind's
15:34:01 22 trying to focus on where we put -- on the
15:34:06 23 second pier where we put household things and
15:34:09 24 then -- but any powder form or anything like
15:34:13 25 that would go down in the pit to soak up the

15:34:15 1 materials and stuff like that, but --

15:34:16 2 Q. All right. I appreciate it. I
15:34:19 3 was just trying to see if I could summarize.
15:34:21 4 The material that would come into the site from
15:34:23 5 whatever source when you characterize it as
15:34:26 6 construction materials, okay?

15:34:26 7 A. Um-hum.

15:34:29 8 Q. And we're talking there about
15:34:30 9 things like drywall, skids, paint materials,
15:34:34 10 that kind of thing?

15:34:35 11 A. Yes. Yes.

15:34:36 12 Q. And are you -- do you -- is it
15:34:37 13 fair to say that there was a fair amount of
15:34:39 14 that material that was brought in during the
15:34:42 15 operation of the landfill?

15:34:53 16 A. I wanted to go to how it became
15:35:00 17 known to me and remembered about Pittsburgh
15:35:03 18 Paint, and I haven't really had thought
15:35:07 19 about -- much more about Pittsburgh Paint, so I
15:35:13 20 really haven't focused on it, you know, as much
15:35:17 21 as other -- everything's -- there's so many
15:35:19 22 companies and companies that were associated
15:35:24 23 with somebody, but something that juggled my --
15:35:27 24 my brain, it's oh, I forgot about them.

15:35:30 25 Q. And I appreciate that, sir, but my

15:35:33 1 question simply was -- I'm just trying to
15:35:35 2 understand generically the kind of construction
15:35:38 3 material that came in apart from Pittsburgh
15:35:41 4 Paint.

15:35:41 5 A. Okay.

15:35:46 6 Q. So you had multiple -- multiple
15:35:47 7 sources were bringing construction debris to
15:35:51 8 the landfill, correct?

15:35:51 9 A. Correct, um-hum.

15:35:52 10 Q. And those were the general kinds
15:35:55 11 of materials we're talking about, drywall,
15:35:57 12 paint materials?

15:35:57 13 A. Okay. Yes.

15:35:58 14 Q. All right.

15:35:58 15 A. Now I see where you're going.
15:36:00 16 Okay. Yeah. Sorry.

15:36:02 17 Q. Now, yesterday when you talked
15:36:05 18 about the PPG material -- or the Pittsburgh
15:36:09 19 Paint material that you associated with
15:36:10 20 Pittsburgh Paint, was that part of one of these
15:36:15 21 construction debris projects that would come
15:36:18 22 into the site?

15:36:19 23 A. Possibly.

15:36:21 24 Q. Do you have any other idea what it
15:36:23 25 could have been, other than the construction

15:36:25 1 project?

15:36:31 2 A. Not at this time.

15:36:39 3 Q. I understand from reading your
15:36:42 4 testimony in April, 2012, that from time to
15:36:46 5 time you would go around and look at the
15:36:52 6 various customers of the landfill.

15:36:56 7 You would go to their location and
15:37:00 8 look because you wanted -- out of curiosity,
15:37:00 9 you wanted to see what kind of -- what kind of
15:37:03 10 a production system they had.

15:37:04 11 A. Right, um-hum.

15:37:05 12 Q. Do you recall that?

15:37:06 13 A. Yes.

15:37:06 14 Q. All right. And there were --
15:37:08 15 among people -- Pittsburgh Paint was not one of
15:37:10 16 those facilities, was it?

15:37:11 17 A. No, sir.

15:37:11 18 Q. Okay. So you didn't go out to
15:37:13 19 this Salem Avenue location at any point, except
15:37:18 20 to buy paint in the '70s?

15:37:21 21 A. No.

15:37:45 22 Q. Did you ever talk to any of the
15:37:49 23 drivers of the material that you associate with
15:37:53 24 the PPG material that you testified to
15:37:56 25 yesterday?

15:37:56 1 A. I could have.

15:37:58 2 Q. Do you know who those drivers were
15:38:01 3 employed by?

15:38:03 4 A. Some from A.E. Fickert, and I
15:38:22 5 don't remember right now, but --

15:38:23 6 Q. Okay. And some of the drivers
15:38:25 7 from A.E. Fickert would bring in the -- the
15:38:29 8 material that you described yesterday that you
15:38:31 9 associated with P -- with Pittsburgh Paint?

15:39:01 10 A. Correct.

15:39:13 11 MR. STINSON: Thank you, sir.

15:39:14 12 THE WITNESS: You're welcome.

15:39:14 13 CROSS-EXAMINATION

15:39:14 14 BY MS. RHINEHART:

15:39:35 15 Q. Hi, Mr. Grillot. My name is Erin
15:39:37 16 Rhinehart. I represent Cox Media Group, Ohio.
15:39:40 17 How you feeling?

15:39:40 18 A. Okay.

15:39:41 19 Q. Okay. Are you still able to give
15:39:43 20 truthful and accurate testimony?

15:39:44 21 A. Yes, ma'am.

15:39:45 22 Q. Okay. You testified yesterday
15:39:47 23 that the Dayton Daily News and the Journal
15:39:50 24 Herald were customers of the dump, is that
15:39:51 25 correct?

15:39:51 1 A. Correct.

15:39:52 2 Q. And do you recall having a
15:39:54 3 conversation regarding certain customers being
15:39:58 4 regular industrial customers and then there
15:40:01 5 were residential customers and then there was a
15:40:03 6 third category?

15:40:05 7 A. No.

15:40:06 8 Q. Okay. Did the Dayton Daily News
15:40:08 9 have a charge with the dump?

15:40:15 10 A. I believe so.

15:40:15 11 Q. And what makes you believe that?

15:40:19 12 A. Because they were pretty regular.

15:40:20 13 Q. And what about the Journal Herald,
15:40:22 14 did they have a charge?

15:40:25 15 A. I think I made a statement
15:40:28 16 yesterday that I thought they were both the
15:40:30 17 same, you know, company.

15:40:35 18 Q. Okay. And did the dump consider
15:40:36 19 the Dayton Daily News and the Journal Herald
15:40:39 20 one entity or one customer?

15:40:41 21 A. Yes.

15:40:41 22 Q. Okay. If you can take a look
15:40:45 23 at -- this was originally marked as Exhibit 3
15:40:47 24 to your 2012 deposition, and I believe it's
15:40:49 25 been marked as exhibit -- Defendants' Exhibit 2

15:40:51 1 today, and these are copies of the dump
15:40:51 2 tickets?

15:40:55 3 A. Correct.

15:40:56 4 Q. And do you have a specific
15:40:57 5 recollection of seeing a dump ticket with the
15:41:01 6 Dayton Daily News written on it?

15:41:03 7 A. I don't remember at this time.

15:41:06 8 Q. Okay. What about a dump ticket
15:41:07 9 with the Journal Herald written on it?

15:41:09 10 A. Not at this time.

15:41:10 11 Q. What would have been written on a
15:41:12 12 dump ticket for that customer?

15:41:12 13 MR. ROMINE: Objection.

15:41:12 14 Hypothetical.

15:41:12 15 THE WITNESS: I don't know at this
15:41:12 16 time.

15:41:26 17 BY MS. RHINEHART:

15:41:26 18 Q. I believe yesterday you testified
15:41:29 19 that under certain circumstances when Kenny was
15:41:31 20 unavailable, you would have written out the
15:41:34 21 dump tickets, is that correct?

15:41:34 22 A. Correct, um-hum.

15:41:35 23 Q. When the Dayton Daily News or
15:41:37 24 Journal Herald came to deliver something to the
15:41:40 25 dump, if you were there to take that ticket or

15:41:43 1 write that ticket out, what would you have
15:41:45 2 written on the ticket to denote that that was
15:41:48 3 the Dayton Daily News or the Journal Herald?

15:41:49 4 A. Because it would -- personally I
15:41:54 5 don't remember making a ticket out for either
15:41:58 6 entity of both the papers, so I just remember,
15:42:07 7 I think, trucks, I think. White panel trucks,
15:42:10 8 I think, is what.

15:42:14 9 Q. So you have no specific
15:42:15 10 recollection of writing out a dump ticket for
15:42:18 11 either the Dayton Daily News or Journal Herald,
15:42:20 12 is that correct?

15:42:20 13 A. No.

15:42:20 14 Q. Okay. And then let me -- I just
15:42:24 15 want to make sure I understand your testimony
15:42:26 16 from yesterday as to the waste that the Dayton
15:42:29 17 Daily News and Journal Herald would have
15:42:30 18 brought to the dump.

15:42:32 19 It consisted of old newspapers,
15:42:33 20 wood pallets and steel tubes that the
15:42:36 21 newspapers would have been in, is that correct?

15:42:39 22 A. No, they were like newspaper --
15:42:45 23 where you put the newspaper in, you put money
15:42:48 24 in to get the newspaper, they're like a metal
15:42:51 25 stand.

15:42:51 1 Q. Okay. Would they have been empty
15:42:53 2 when they came to the dump?

15:42:54 3 A. Yes.

15:42:55 4 Q. Okay. So aside from the old
15:42:57 5 newspapers, wood pallets and the steel tubes,
15:43:01 6 as you referred to them, there was no other
15:43:03 7 waste that the Dayton Daily News or Journal
15:43:06 8 Herald dumped at the site, correct?

15:43:07 9 A. Correct.

15:43:07 10 Q. Where would the steel tubes have
15:43:14 11 been dumped at the site?

15:43:16 12 MR. ROMINE: Objection. He didn't
15:43:17 13 say tubes, he said boxes.

15:43:19 14 THE WITNESS: It wasn't the tube.
15:43:20 15 Are you referring to the --

15:43:20 16 BY MS. RHINEHART:

15:43:23 17 Q. The steel boxes?

15:43:23 18 A. The steel boxes.

15:43:25 19 Q. Sorry if I misinterpreted that.

15:43:26 20 A. That's okay.

15:43:27 21 Q. So you were referring to steel
15:43:28 22 boxes then that the papers were in?

15:43:28 23 A. Right. Yes.

15:43:30 24 Q. Where would those -- the empty
15:43:32 25 steel boxes, would that have been dumped at the

15:43:32 1 site?

15:43:33 2 A. It would depend whether they'd
15:43:35 3 have a concrete slab they sat on or if they
15:43:37 4 just came without the slab.

15:43:39 5 Q. Okay. And if they came with the
15:43:42 6 slab, where would they have been dumped?

15:43:44 7 A. Down on -- on -- in the pit.

15:43:47 8 Q. Okay. And what about without?

15:43:49 9 A. It would go to the metal pile
15:43:52 10 where we kept steel for recycling.

15:43:56 11 Q. And would you have been able to
15:43:58 12 reuse that metal?

15:43:59 13 A. Yes.

15:43:59 14 Q. Okay. And do you have a specific
15:44:01 15 recollection of reusing the metal that would
15:44:05 16 have been disposed of from the newspapers?

15:44:07 17 A. I don't understand being more
15:44:15 18 specific. They were sent to salvage yard, so
15:44:19 19 we didn't use some of the material off of them,
15:44:23 20 but they were salvaged.

15:44:24 21 Q. I understand. Okay. Thank you.
15:44:27 22 And where would the paper products -- the
15:44:29 23 new -- old newspapers, shredded papers, where
15:44:31 24 would that have been dumped at the site?

15:44:36 25 A. Through different years until

15:44:41 1 Larry Brandon purchased those trash trucks,
15:44:46 2 they were buried, and then the others were --
15:44:52 3 when Larry Brandon started the recycling of
15:44:54 4 newspapers, they'd go to his Dayton Fiber, they
15:44:59 5 were recycled.

15:45:00 6 Q. And what about the wood pallets,
15:45:02 7 would those have been burned in the
15:45:04 8 incinerator?

15:45:04 9 A. Correct.

15:45:05 10 Q. Now, you had just mentioned Larry
15:45:09 11 Brandon, and I believe yesterday you stated
15:45:10 12 that he started in the late '60s Dayton Fiber,
15:45:15 13 is that correct?

15:45:16 14 A. No, I think he started either
15:45:19 15 from -- if I'm not mistaken, the latter part of
15:45:25 16 the '60s and '70s.

15:45:26 17 Q. Okay. And once --

15:45:27 18 A. About -- I think it was '70 -- I
15:45:33 19 don't remember.

15:45:33 20 Q. Okay. Once Larry Brandon started
15:45:37 21 Dayton Fiber and the paper products would be
15:45:41 22 disposed of at Dayton Fiber, did the newspapers
15:45:42 23 continue to dump any waste at the South Dayton
15:45:46 24 Dump?

15:45:46 25 A. Could you rephrase that again,

15:45:47 1 please?

15:45:48 2 Q. Sure. Once Larry Brandon started
15:45:50 3 the Dayton Fiber business and the newspapers
15:45:53 4 would take their paper waste over to Mr.
15:45:57 5 Brandon's facility to be used for insulation --
15:45:58 6 is that correct?

15:45:58 7 A. Correct.

15:45:58 8 Q. Okay. Once that started taking
15:46:00 9 place, did the newspapers still continue to
15:46:03 10 dump waste at the site, at your South Dayton
15:46:12 11 Dump?

15:46:12 12 A. Yes.

15:46:13 13 Q. Okay. And for how long after
15:46:15 14 would they have continued to dump waste?

15:46:18 15 A. I'm not sure, because I think it
15:46:25 16 had ceased at one time, but I don't remember
15:46:27 17 what year, so I just would assume maybe Larry
15:46:31 18 got a contract with them and they were taken
15:46:35 19 directly over to Dayton Fiber. I'm not sure.

15:46:37 20 Q. So at one point, you do have a
15:46:39 21 specific recollection that the newspapers
15:46:39 22 stopped disposing waste altogether at the South
15:46:43 23 Dayton Dump?

15:46:43 24 A. Yes.

15:46:43 25 Q. And would that have been in the

15:46:45 1 early '70s?

15:46:45 2 A. Yes.

15:46:45 3 Q. Okay. So before 1975?

15:46:48 4 A. Oh, yeah.

15:46:48 5 Q. Okay. Would it have been before

15:46:51 6 1970?

15:46:52 7 A. Possible.

15:46:53 8 Q. So maybe sometime between 1970,

15:46:56 9 1971?

15:46:58 10 A. Well, like I said, the -- the

15:47:01 11 latter part of '60s. What I'm saying, '68,

15:47:05 12 maybe '69, '70, '71, '72, somewhere in that

15:47:07 13 area.

15:47:07 14 Q. Okay. So at least not beyond

15:47:09 15 1972 -- let me rephrase that. As of 1972, at

15:47:15 16 the latest, the newspaper was no longer dumping

15:47:18 17 any waste at the South Dayton Dump, correct?

15:47:21 18 A. Correct.

15:47:21 19 Q. How did the Dayton Daily News

15:47:31 20 and Journal Herald transport its waste to the

15:47:34 21 dump?

15:47:36 22 A. I think it came in white like

15:47:41 23 moving -- moving trucks. They were off the

15:47:43 24 ground maybe three feet and had a rollup back

15:47:49 25 door.

15:47:54 1 Q. Anything else you recall about
15:47:56 2 them?

15:47:57 3 A. I think they said -- I'm not sure
15:48:05 4 about the lettering, but there was lettering on
15:48:07 5 the door.

15:48:07 6 Q. Any pictures?

15:48:07 7 A. Whether it was Journal Herald,
15:48:11 8 Dayton Daily News, I'm not sure, but it
15:48:15 9 definitely indicated, and I -- as to their
15:48:16 10 frequency, I would know that was from Dayton --
15:48:20 11 or from Dayton Daily News place.

15:48:23 12 Q. Now, putting aside what you saw at
15:48:26 13 the dump, just being from the Dayton area,
15:48:29 14 would you see Dayton Dailey News, Journal
15:48:32 15 Herald trucks around the Dayton area?

15:48:35 16 A. Only when I delivered papers that
15:48:38 17 they would come to a woman's garage where we'd
15:48:41 18 get them and deliver them. That was the only
15:48:44 19 time.

15:48:44 20 Q. Okay. You delivered Dayton Daily
15:48:46 21 newspapers?

15:48:46 22 A. And Journal Herald, yes.

15:48:47 23 Q. And approximately when was this?

15:48:50 24 A. Right around, I think, '62, '63
15:49:05 25 maybe.

15:49:05 1 Q. And for how long did you deliver
15:49:07 2 newspapers for the Dayton Daily News and
15:49:09 3 Journal Herald?

15:49:16 4 A. I think it was mostly in the
15:49:17 5 wintertime when I needed some extra cash, but I
15:49:22 6 didn't do it in the spring or summer because
15:49:25 7 I'd be out at the dump.

15:49:26 8 Q. For how many years, how many
15:49:26 9 winters?

15:49:30 10 A. About -- about two years.

15:49:30 11 Q. Okay. And the trucks that would
15:49:31 12 deliver the newspapers to you for you to then
15:49:34 13 go and deliver to the customers, were those the
15:49:35 14 same trucks that you recall seeing come to the
15:49:37 15 dump to deliver waste?

15:49:39 16 A. Yes.

15:49:39 17 Q. When the trucks -- going back to
15:49:44 18 the trucks that came to the dump, did you see
15:49:48 19 inside those trucks?

15:49:52 20 A. I've seen inside their trucks, but
15:49:54 21 I don't remember looking at them at the
15:49:59 22 landfill.

15:49:59 23 Q. Okay. So you have no specific
15:50:01 24 recollection of looking inside a Dayton Dailey
15:50:03 25 News or Journal Herald truck when it was

15:50:05 1 delivering waste to the site, correct?

15:50:06 2 A. Correct. Correct.

15:50:07 3 Q. Did you ever talk to one of the
15:50:09 4 drivers of the Dayton Daily News or Journal
15:50:12 5 Herald trucks --

15:50:12 6 A. No.

15:50:13 7 Q. -- when they came to the site?

15:50:15 8 A. No.

15:50:15 9 Q. Did you ever help unload a Dayton
15:50:23 10 Daily News or Journal Herald truck when it came
15:50:25 11 to the site to deliver waste?

15:50:32 12 A. No.

15:50:32 13 MS. RHINEHART: Thank you for your
15:50:33 14 time. I have nothing further.

15:50:35 15 THE WITNESS: You're welcome.

15:50:35 16 CROSS-EXAMINATION

15:50:51 17 BY MR. RUDLOFF:

15:50:51 18 Q. Sir, are you doing okay?

15:50:53 19 A. Yes.

15:50:53 20 Q. I'm Drew Rudloff. I represent the
15:51:05 21 Dayton Board of Education. I might refer to
15:51:07 22 the board or to the district during the course
15:51:09 23 of the deposition. I'll try to stick with one
15:51:11 24 or the other, but if I slip into one or the
15:51:14 25 other, I'm -- I'm mentioning and referring to

15:51:16 1 the same organization and entity, okay?

15:51:18 2 A. Yes.

15:51:18 3 Q. Okay. You indicated that you're
15:51:19 4 doing okay. You're still able to understand my
15:51:24 5 questions and provide testimony here today?

15:51:25 6 A. Yes, I am.

15:51:26 7 Q. Okay. Throughout the course of
15:51:32 8 the questioning, both in 2012 during your
15:51:34 9 deposition then, yesterday and today, you've
15:51:37 10 understood that you're under oath, correct?

15:51:39 11 A. I what?

15:51:39 12 Q. That you're under oath.

15:51:40 13 A. Yes, um-hum.

15:51:43 14 Q. Okay. And that oath is just as
15:51:44 15 binding as if you're testifying before a judge
15:51:46 16 and jury, correct?

15:51:47 17 A. Correct.

15:51:47 18 Q. Okay. Can you provide me with
15:51:48 19 your current mailing address?

15:51:51 20 A. Probably 7561 Walmac right now.

15:51:57 21 Q. Okay. And, I apologize, remind
15:51:59 22 again what address that is?

15:52:01 23 A. Donna Moeller's.

15:52:02 24 Q. Okay. Understood. If that
15:52:08 25 address -- if that mailing address changes at

15:52:11 1 any point in the future, can you let me know
15:52:13 2 that? I can provide you with my contact
15:52:16 3 information, okay?

15:52:17 4 A. Sure.

15:52:17 5 Q. Okay. You've never attended
15:52:20 6 school at any school in the Dayton Public
15:52:24 7 School System, correct?

15:52:27 8 A. I did.

15:52:28 9 Q. Okay. And where did you -- where
15:52:28 10 did you attend?

15:52:31 11 A. Dayton night school, I think 1970.

15:52:38 12 Q. Okay. Did any member of your
15:52:45 13 family attend school in the Dayton Public
15:52:47 14 School System?

15:52:47 15 A. My father and my mother.

15:52:47 16 Q. Okay.

15:52:50 17 A. And then my brother.

15:52:51 18 Q. Okay. Which brother?

15:52:52 19 A. John.

15:52:54 20 Q. All of them graduate from the
15:52:56 21 Dayton Public School System?

15:52:59 22 A. I think just John.

15:53:03 23 Q. Okay. I -- you had indicated
15:53:05 24 yesterday and today that there were some ill
15:53:08 25 feelings towards the University of Dayton.

15:53:09 1 No ill feelings in any regard with
15:53:12 2 respect to the Dayton Public School System,
15:53:14 3 correct?

15:53:14 4 A. No.

15:53:15 5 Q. Okay. Yesterday you had indicated
15:53:19 6 the Dayton Public Schools had delivered --
15:53:22 7 excuse me -- strike that.

15:53:24 8 You had indicated that Dayton
15:53:26 9 Public Schools had certain materials
15:53:27 10 transported to the site, correct?

15:53:29 11 A. Correct.

15:53:30 12 Q. Okay. And that included
15:53:33 13 furniture, which I believe there were some
15:53:35 14 doors that you described yesterday?

15:53:37 15 A. Yes.

15:53:38 16 Q. You had also indicated in your
15:53:41 17 2012 deposition wooden cabinets as well as
15:53:43 18 desks, correct?

15:53:45 19 A. Correct.

15:53:45 20 Q. Okay. Any other materials that
15:53:48 21 you would lump in that furniture category that
15:53:51 22 you believe Dayton Public Schools transported
15:53:53 23 to the site?

15:53:54 24 A. No.

15:53:54 25 Q. You had also talked about books,

15:53:56 1 wood pallets, wood benches and paper debris.

15:54:02 2 Aside from those things, are there any other

15:54:04 3 materials that you claim Dayton Public Schools

15:54:06 4 had transported to the site at any time?

15:54:08 5 A. No.

15:54:09 6 Q. Okay. With respect to the paper

15:54:11 7 debris, can you tell me just briefly what you

15:54:14 8 meant by that?

15:54:17 9 A. Like before I mentioned it was

15:54:19 10 trash you'd get out of a office or, you know, a

15:54:23 11 bathroom. It was in a few bags.

15:54:26 12 Q. Okay. Can you describe for me in

15:54:30 13 any greater detail what you meant by paper

15:54:32 14 debris when you said that yesterday?

15:54:34 15 A. Toilet paper, you know, the end of

15:54:38 16 a toilet -- the cardboard part of a toilet

15:54:40 17 paper --

15:54:41 18 Q. The interior roll?

15:54:43 19 A. Lots of brown hand towel things

15:54:49 20 that you -- that's all I can remember at this

15:55:00 21 moment.

15:55:00 22 Q. And so you've told me the sum

15:55:01 23 total of all the materials that you believe

15:55:05 24 Dayton Public Schools transported to the site,

15:55:06 25 correct?

15:55:06 1 A. Correct.

15:55:06 2 Q. Okay. Is there any way that you
15:55:09 3 can quantify how -- how many of each of those
15:55:16 4 things were transported to the site?

15:55:18 5 A. No.

15:55:18 6 Q. Okay. Am I understanding based on
15:55:25 7 your testimony yesterday, that you can't tell
15:55:27 8 me how those materials were transported to the
15:55:31 9 site, correct?

15:55:31 10 A. Correct.

15:55:32 11 Q. What's the basis for your belief
15:55:39 12 that those materials are attributable to Dayton
15:55:39 13 Public Schools?

15:55:47 14 A. Well, like I stated yesterday,
15:55:51 15 like the school desks that we had taken home,
15:55:58 16 my cousins and myself, would have Dayton School
15:56:03 17 Board or something on a label on one of the
15:56:07 18 legs or on the wooden desk itself.

15:56:10 19 Q. Okay. How many desks were taken
15:56:14 20 home?

15:56:14 21 A. Maybe half a dozen, dozen.

15:56:20 22 Q. You sound unsure about that.

15:56:24 23 A. Yes.

15:56:24 24 Q. Okay. You're unsure as to how
15:56:26 25 many desks were taken from the property,

15:56:28 1 correct?

15:56:28 2 A. Am I unsure?

15:56:31 3 Q. Yes.

15:56:31 4 A. Yes.

15:56:32 5 Q. Okay. Were any of the other

15:56:35 6 materials that you -- that you've listed for me

15:56:39 7 that we spoke about a moment ago taken from the

15:56:42 8 site?

15:56:55 9 A. No.

15:56:58 10 Q. Okay. Did any of the other

15:57:00 11 materials that we've talked about bear a

15:57:03 12 similar stamp to what you just described or

15:57:07 13 have any other indication whatsoever that they

15:57:09 14 were from Dayton Public Schools?

15:57:10 15 A. I think inside some of the books

15:57:16 16 might have had a stamp in ink with some dates

15:57:19 17 on it.

15:57:20 18 Q. They may have had a stamp or they

15:57:26 19 had a stamp? It seemed like you were, again,

15:57:28 20 unsure about that.

15:57:30 21 A. I'm pretty sure, so, yes. I'm

15:57:34 22 thinking. Yes would be my comment. Sorry guys

15:57:37 23 down there.

15:57:37 24 Q. Okay. And again, you can't

15:57:39 25 quantify the number of books for me that were

15:57:41 1 on site?

15:57:41 2 A. No.

15:57:41 3 Q. Okay. Any of the other materials
15:57:53 4 that you've listed for me that bore a similar
15:57:55 5 stamp or had any other indication whatsoever
15:57:58 6 that those materials were attributable to
15:58:01 7 Dayton Public Schools?

15:58:02 8 A. No.

15:58:02 9 Q. You had also indicated that no
15:58:09 10 other school district had contributed to waste
15:58:12 11 at the site. What's the basis for that
15:58:16 12 statement?

15:58:19 13 A. Because I can't remember seeing
15:58:24 14 any type of label, stamp or anything that would
15:58:27 15 indicate otherwise.

15:58:29 16 Q. Okay. But it's possible that
15:58:30 17 other districts could have contributed, you
15:58:33 18 just can't remember?

15:58:34 19 A. Yes.

15:58:35 20 Q. Did you ever see any receipts,
15:58:50 21 documents, anything at all, other than what we
15:58:55 22 already discussed -- well, strike that. I'm
15:58:55 23 sorry.

15:58:59 24 Have you ever seen any receipts or
15:59:02 25 other documents indicating whatsoever -- in any

15:59:05 1 way whatsoever that Dayton Public Schools had
15:59:09 2 transported waste to the site?

15:59:10 3 A. No.

15:59:10 4 Q. And the sole basis for your belief
15:59:16 5 that Dayton Public Schools transported waste to
15:59:20 6 this site were the stamps that you had
15:59:23 7 indicated on the desks and the stamps included
15:59:23 8 in the books, correct?

15:59:29 9 A. Correct.

15:59:29 10 Q. Did you personally observe the
15:59:44 11 delivery of any of those materials that we had
15:59:47 12 listed earlier?

15:59:49 13 A. No.

15:59:52 14 Q. You had indicated yesterday that
15:59:56 15 the majority of the materials that you
16:00:00 16 attributed to Dayton Public Schools were
16:00:00 17 incinerated?

16:00:04 18 A. I don't remember that statement.

16:00:06 19 Q. Okay. But was that, in fact,
16:00:09 20 true?

16:00:11 21 A. If I made the statement, yes.

16:00:14 22 Q. Okay. Well --

16:00:16 23 A. But I think I referred to the
16:00:18 24 doors where I had to take the hinges off, but
16:00:21 25 the desks of -- being of steel nature, would

16:00:25 1 not have been a burnable product.

16:00:31 2 Q. Okay. Were there any desks that
16:00:33 3 remained at the site?

16:00:37 4 A. No.

16:00:40 5 Q. So all of the desks that were
16:00:42 6 taken to the site were removed by either you or
16:00:44 7 your relatives?

16:00:46 8 A. Or Franklin Iron and Metal.

16:00:54 9 Q. Okay. Do you know if any of the
16:00:55 10 books remained at the site?

16:01:00 11 A. Yes.

16:01:01 12 Q. Okay. How do you know that?

16:01:06 13 A. Because if they were left at the
16:01:10 14 dump, any type of that -- books and stuff was
16:01:13 15 taken to the third pier where it would be
16:01:15 16 buried.

16:01:46 17 Q. You never observed any of the
16:01:47 18 deliveries of materials that you attributed to
16:01:50 19 Dayton Public Schools?

16:01:52 20 A. No.

16:01:52 21 MR. ROMINE: Asked and answered.

16:01:52 22 BY MR. RUDLOFF:

16:02:00 23 Q. You had indicated yesterday the
16:02:02 24 timing and sequence of when deliveries of
16:02:04 25 materials that you attribute to Dayton Public

16:02:06 1 Schools occurred, and you had said that those
16:02:08 2 had occurred early on, which I took to mean in
16:02:13 3 the 1960s, am I correct in that -- in that
16:02:17 4 understanding?

16:02:18 5 A. Yes.

16:02:19 6 Q. Okay. That's -- can you give me a
16:02:23 7 time frame as to when you first observed
16:02:25 8 materials on site that you attributed to Dayton
16:02:29 9 Public Schools?

16:02:29 10 A. '61 maybe.

16:02:35 11 Q. Okay. Can you give me a date when
16:02:37 12 you last observed materials on site that you
16:02:40 13 attributed to Dayton Public Schools?

16:02:45 14 A. The same year.

16:02:46 15 Q. Also '61?

16:02:48 16 A. Yeah.

16:02:48 17 Q. Okay. You said that there were --
16:02:57 18 I -- I believe deliveries twice in the summer
16:02:59 19 yesterday when we -- when we spoke.

16:03:03 20 Is that your recollection that the
16:03:06 21 delivery of materials at Dayton Public -- or,
16:03:09 22 excuse me -- that the delivery of materials to
16:03:11 23 the site occurred in the summer months of 1961?

16:03:19 24 A. I don't remember, but I -- I
16:03:24 25 thought I said -- right now as I'm sitting

16:03:26 1 here, I thought I said I didn't experience
16:03:28 2 deliveries, but I'm not -- you know --

16:03:31 3 Q. That's what you told me, but you
16:03:32 4 said yesterday that delivery occurred in the
16:03:34 5 summer months, and that's why I'm -- I want to
16:03:37 6 make certain I understand.

16:03:38 7 A. Okay.

16:03:38 8 Q. You don't know when materials,
16:03:40 9 that you attributed to Dayton Public Schools,
16:03:43 10 were delivered at this site, correct?

16:03:45 11 A. No. Correct.

16:03:45 12 Q. Dayton Public Schools didn't have
16:03:52 13 any kind of charge account with the dump?

16:03:54 14 A. Not to my knowledge.

16:03:56 15 Q. Okay. Are you aware of any
16:03:59 16 arrangements between Alcine or Kenneth or
16:04:04 17 anyone else associated with the dump and anyone
16:04:06 18 at Dayton Public Schools regarding delivery of
16:04:09 19 materials to the site?

16:04:10 20 A. No.

16:04:10 21 Q. Okay. Have you ever spoken with
16:04:23 22 anyone at Dayton Public Schools -- excuse me.

16:04:28 23 Have you ever spoken with any
16:04:30 24 representative of Dayton Public Schools
16:04:31 25 regarding the transfer of materials to the

16:04:34 1 site?

16:04:34 2 A. No.

16:04:34 3 Q. Okay. No delivery driver, no
16:04:36 4 anything of that nature?

16:04:37 5 A. No.

16:04:40 6 Q. It's my impression that you didn't
16:04:48 7 believe Dayton Public Schools was a great
16:04:50 8 contributor to this site, correct?

16:04:51 9 A. Correct.

16:04:52 10 Q. Okay. And I'm correct in that
16:04:55 11 impression?

16:04:55 12 A. Correct.

16:04:56 13 Q. Okay. Regarding your -- your
16:05:17 14 felony offense involving marijuana, how much
16:05:20 15 marijuana was involved in that?

16:05:32 16 A. Probably -- I don't know grams
16:05:35 17 or -- I wasn't interested, because I didn't
16:05:39 18 like marijuana, it was probably about -- about
16:05:42 19 the size of a cigarette pack, something like
16:05:44 20 that.

16:05:45 21 Q. Okay. You can't tell me weight
16:05:46 22 or -- as we're sitting here today, correct?

16:05:52 23 A. Correct.

16:05:52 24 Q. You understand that the plaintiffs
16:05:54 25 have filed a lawsuit against the defendants

16:05:58 1 represented in this room and on the telephone,
16:05:58 2 correct?

16:05:58 3 A. Correct.

16:06:01 4 Q. You understand a lawsuit's been
16:06:03 5 filed, and I guess my question is, do you care
16:06:04 6 who wins the lawsuit?

16:06:05 7 A. Correct. Pardon me?

16:06:05 8 Q. Do you care who wins the lawsuit?

16:06:11 9 A. No.

16:06:36 10 MR. RUDLOFF: I think those are all
16:06:37 11 the questions I have for you. Thank you, sir.

16:06:37 12 THE WITNESS: Thank you.

16:06:37 13 (Thereupon, the court reporter
16:06:39 14 interrupted the proceedings.)

16:06:46 15 (Pause in proceedings.)

16:06:46 16 CONTINUED CROSS-EXAMINATION

16:06:46 17 BY MR. HAUGHEY:

16:16:01 18 Q. Okay. Mr. Grillot, my name is
16:16:04 19 Steve Haughey. Yesterday we talked for a
16:16:09 20 while, but I was not able to complete my
16:16:11 21 questions because of the timing and other folks
16:16:15 22 who could not be here today wanting to go
16:16:18 23 forward and be done yesterday, so I agreed to
16:16:20 24 finish my questions this afternoon, but do you
16:16:24 25 remember talking with me yesterday?

16:16:25 1 A. Yes.

16:16:26 2 Q. Yeah. And, in fact, we talked
16:16:27 3 about growing up in -- in Dayton?

16:16:29 4 A. Yes.

16:16:29 5 Q. Yeah, that was fun. Thank you.
16:16:32 6 Can you -- I want you to help me fill in some
16:16:36 7 dates, to the best of your knowledge, about
16:16:38 8 some of the other landfills in the Dayton area.

16:16:42 9 Now, the only ground rule that I
16:16:45 10 have for this is that when I say landfill, I
16:16:49 11 don't just mean a -- you know, a really
16:16:51 12 significant, all new, fancy landfill. I mean
16:16:54 13 any dumpsite, anyplace where dump -- where
16:16:57 14 waste could be dumped, okay?

16:16:58 15 A. (Witness nodding head up and
16:16:58 16 down.)

16:16:59 17 Q. So just keep that in mind. In the
16:17:02 18 1960s and in the -- and into the 1970s, what
16:17:08 19 other landfills or dumpsites were available in
16:17:11 20 the general Dayton area that could be used,
16:17:14 21 other than this site?

16:17:16 22 MR. ROMINE: I object on the grounds
16:17:17 23 of relevance and that it violates Judge Rice's
16:17:18 24 order limiting the scope of this deposition
16:17:20 25 testimony.

16:17:23 1 THE WITNESS: How many?

16:17:23 2 BY MR. HAUGHEY:

16:17:24 3 Q. No, give me the names of all the
16:17:26 4 other dumpsites around the area that were open.
16:17:28 5 Let's start with the '60s where someone could
16:17:33 6 take waste other than coming here.

16:17:35 7 MR. ROMINE: Same objection.

16:17:36 8 THE WITNESS: Is it -- other than
16:17:36 9 what we talked about on these here?

16:17:36 10 BY MR. HAUGHEY:

16:17:38 11 Q. Any of them, yeah. I mean, we can
16:17:40 12 start with those. Was -- Powell Road was open,
16:17:43 13 wasn't it, during the '60s?

16:17:45 14 MR. ROMINE: Same -- same objection.

16:17:45 15 THE WITNESS: No.

16:17:46 16 BY MR. HAUGHEY:

16:17:47 17 Q. Powell Road -- Powell Road
18 Landfill was not open --

19 A. There -- there --

20 (Thereupon, the court reporter
21 interrupted the proceedings.)

22 BY MR. HAUGHEY:

16:17:53 23 Q. Yeah, that's okay. Powell Road
16:17:56 24 Landfill was open at some point in the 1960s,
16:17:59 25 was it not?

16:17:59 1 MR. ROMINE: Same objection.

16:17:59 2 THE WITNESS: Correct.

16:17:59 3 BY MR. HAUGHEY:

16:18:00 4 Q. Right, it was. Okay. So that's a
16:18:01 5 yes. Okay. Do you remember the name --
16:18:06 6 talking with me about the one called
16:18:09 7 Valleycrest?

16:18:11 8 MR. ROMINE: Same objection.

16:18:12 9 THE WITNESS: Yes.

16:18:12 10 BY MR. HAUGHEY:

16:18:13 11 Q. Do you remember talking --

16:18:13 12 A. Yes.

16:18:14 13 Q. Okay. Do you know if it was open
16:18:15 14 in the '60s?

16:18:17 15 MR. ROMINE: Same objection.

16:18:19 16 THE WITNESS: It was not.

16:18:21 17 BY MR. HAUGHEY:

16:18:21 18 Q. It was not. Okay. Do you know
16:18:22 19 when it opened?

16:18:24 20 MR. ROMINE: Same objection.

16:18:26 21 THE WITNESS: In the '70s.

16:18:27 22 BY MR. HAUGHEY:

16:18:27 23 Q. Okay. So that one would be the
16:18:29 24 '70s. How do you know it was open in the '70s
16:18:33 25 and not in the '60s?

16:18:33 1 MR. ROMINE: Same objection.

16:18:35 2 THE WITNESS: Of my interest, because
16:18:37 3 they were incinerators, like the two that were
16:18:40 4 built at our landfill, that one and then the one
16:18:46 5 on Pinn -- Pinnacle Road, which would have been
16:19:01 6 South Sanitary Landfill.

16:19:01 7 BY MR. HAUGHEY:

16:19:01 8 Q. Okay. What is it about the
16:19:03 9 construction of the incinerator at the South
16:19:10 10 Dayton Dump site that makes you remember when
16:19:12 11 the Valleycrest site opened?

16:19:14 12 A. Because I would drive by there and
16:19:17 13 I worked around that area. That was a way to
16:19:20 14 go home, so I was watching it being built.

16:19:23 15 Q. Okay. So your reason for your
16:19:27 16 recollection is that you remember seeing the
16:19:29 17 Valleycrest Landfill being constructed in the
16:19:32 18 '70s?

16:19:32 19 A. Yes, sir.

16:19:33 20 Q. Okay. Thank you. All right. So
16:19:35 21 at least in the '70s, it was an option for
16:19:38 22 somebody, correct?

16:19:39 23 A. Right.

16:19:39 24 Q. Okay. All right. Now, you
16:19:43 25 mentioned the South Sanitary Landfill on

16:19:43 1 Pinnacle Road?

16:19:44 2 MR. ROMINE: Same objection.

16:19:45 3 THE WITNESS: Yeah.

16:19:46 4 MR. HAUGHEY: David, I'm going to
16:19:47 5 talk for maybe ten, 15 minutes all about these
16:19:52 6 landfills to fill in the dates. I can tell you
16:19:55 7 when I'm going to stop and move on to another
16:19:57 8 topic if you just want to take a continuing
16:19:58 9 objection, and then we'll -- and that way you
16:20:00 10 don't have to keep repeating yourself.

16:20:00 11 MR. ROMINE: That's fine.

16:20:02 12 MR. HAUGHEY: Okay. Let's do that.

16:20:03 13 BY MR. HAUGHEY:

16:20:03 14 Q. All right. Pinnacle Road
16:20:06 15 Landfill, was it open in the '60s?

16:20:09 16 A. No, I thought I elaborated. The
16:20:12 17 north? I'm --

16:20:12 18 Q. No, the south. The South Sanitary
16:20:14 19 Landfill, the one on Pinnacle Road.

16:20:15 20 A. Well, we'll have to go back to
16:20:17 21 Valleycrest because I did not see that one
16:20:20 22 built. I'm -- I was con -- confusing the two
16:20:24 23 were together, and we were talking about the
16:20:26 24 south one, which would be on Pinnacle Road, so
16:20:30 25 I'm sorry about that.

16:20:30 1 Q. Right. Right. That's okay.

16:20:31 2 Yeah, the Valleycrest Landfill was called the
16:20:33 3 North Sanitary Landfill, correct?

16:20:34 4 A. Correct.

16:20:35 5 Q. Right. Okay. So does that change
16:20:38 6 your recollection of when the Valleycrest
16:20:42 7 Landfill was constructed?

16:20:43 8 A. No.

16:20:44 9 Q. Okay. So you're saying you drove
16:20:46 10 by it and the North Sanitary Landfill called
16:20:50 11 Valleycrest in the '70s and watched it being
16:20:54 12 built, correct?

16:20:57 13 A. I'm confused.

16:20:58 14 Q. Okay. You know what? I'll tell
16:21:01 15 you, why don't we agree on another ground rule.
16:21:03 16 If you don't remember, don't make it up, okay?

16:21:06 17 A. No --

16:21:06 18 Q. Just say I don't remember.

16:21:07 19 A. No, I'm confused with -- I was
16:21:11 20 told they were both built at the same time. It
16:21:14 21 was like a sister city, and the one that I saw
16:21:18 22 being built was the one that I drove by every
16:21:21 23 day because I was on my way home, and that
16:21:22 24 would have been the one on Pinnacle Road.

16:21:25 25 Q. The South Sanitary Landfill?

16:21:26 1 A. Correct.

16:21:27 2 Q. Okay. And so then your
16:21:29 3 understanding is both the North and the South
16:21:33 4 Sanitary Landfills, one on Valleycrest, one on
16:21:35 5 Pinnacle Road, were constructed sometime in the
16:21:37 6 '70s, correct?

16:21:37 7 A. Correct.

16:21:38 8 Q. Okay. All right. All right. How
16:21:42 9 about the Vance Road Landfill, was it open at
16:21:49 10 all during the 1960s?

16:21:50 11 A. Yes.

16:21:50 12 Q. Okay. Was it open into the '70s?

16:21:54 13 A. Yes.

16:21:55 14 Q. Was it open into the '80s?

16:21:58 15 A. I don't know.

16:21:59 16 Q. Okay. How about Cardington Road,
16:22:10 17 sometimes called Dorothy Lane Dump?

16:22:15 18 A. Yes, that was -- do you want the
16:22:19 19 date time or do you want to know --

16:22:21 20 Q. Was the Cardington Road Landfill
16:22:24 21 also known as the South Dayton -- or, I'm
16:22:26 22 sorry -- also known as Dorothy Lane Dump open
16:22:29 23 in the '60s?

16:22:35 24 A. Yes.

16:22:36 25 Q. Was it also open in the '70s?

16:22:38 1 A. Yes.

16:22:38 2 Q. Okay. Was it open in the '80s?

16:22:41 3 A. No.

16:22:41 4 Q. Okay. Okay. How about the -- the
16:22:48 5 one on the sheet called Espe, Espe Dump? Do
16:22:54 6 you have any knowledge of --

16:22:54 7 A. No.

16:22:56 8 Q. Okay. You have no knowledge of
16:22:57 9 when that would have ever been open?

16:22:59 10 A. No, I didn't know it existed.

16:23:01 11 Q. Okay. All right. Okay. Was the
16:23:05 12 Powell Road Landfill continued to be open in
16:23:07 13 the '70s?

16:23:09 14 A. Yes.

16:23:09 15 Q. Okay. How about the '80s?

16:23:12 16 A. I don't know.

16:23:16 17 Q. Okay. All right. Now, remember
16:23:20 18 the South and North Dayton Incinerators?

16:23:23 19 A. Um-hum.

16:23:24 20 Q. Okay. Let's start with the South
16:23:28 21 Dayton Incinerator. What's your earliest
16:23:29 22 recollection of when it was open to take trash?

16:23:35 23 A. The early '60s I think I spoke of.
16:23:38 24 I mean, '70s.

16:23:39 25 Q. I'm talking about the South Dayton

16:23:42 1 Incinerator, the one that was located right
16:23:44 2 next to I-75 --

16:23:45 3 A. That's the one I'm speaking --

16:23:45 4 Q. -- that burned -- yeah.

16:23:48 5 A. That's the one --

16:23:48 6 Q. Yeah.

16:23:50 7 A. The south one on Pinnacle.

16:23:51 8 Q. Yeah. Okay.

16:23:51 9 A. I think it opened up '74, '75.

16:23:58 10 Q. Okay. How about the North Dayton
16:23:58 11 Incinerator?

16:24:04 12 A. I can only assume it was finished
16:24:06 13 the same time that Pinnacle was.

16:24:09 14 Q. Okay. What about Blaylock, didn't
16:24:14 15 Blaylock have a dump? Didn't I remember you
16:24:16 16 saying that earlier today?

16:24:17 17 A. That didn't come to my mind till
16:24:19 18 today, and I do remember it quite well now.

16:24:21 19 Q. Was it open in the '60s?

16:24:23 20 A. Yes.

16:24:23 21 Q. Where was it located?

16:24:25 22 A. I mentioned -- I think the name of
16:24:30 23 that road at that time was -- it turned -- it
16:24:40 24 turned into -- my mind just went blank.

16:24:43 25 Q. That's okay. But you remember it

16:24:44 1 was open in the '60s?

16:24:45 2 A. Yes.

16:24:45 3 Q. Was it on -- generally on the
16:24:48 4 north side of Dayton? South side?

16:24:48 5 A. South side.

16:24:48 6 Q. East? So on the South. So it was
16:24:48 7 another option on the south --

16:24:48 8 A. South -- South Dixie.

16:24:53 9 Q. It was on South Dixie?

16:24:55 10 A. Yeah.

16:24:55 11 Q. Okay. So it was a south side
16:24:56 12 landfill?

16:24:56 13 A. Yeah.

16:24:57 14 Q. Okay. Was it open into the '70s?

16:25:08 15 A. I don't believe so.

16:25:10 16 Q. Okay. Were there any other dumps
16:25:19 17 beyond those I've mentioned that you remember
16:25:22 18 that were also open in the '60s anywhere around
16:25:28 19 Dayton?

16:25:33 20 A. There was dumping going on where
16:25:39 21 UD Arena sat.

16:25:40 22 Q. Okay. Who owned that site at that
16:25:44 23 time before UD built the arena?

16:25:46 24 A. Well, it kind of changed hands.
16:25:52 25 Dad -- Dad and Horace Boesch owned it before

16:25:56 1 donating it to UD.

16:25:59 2 Q. Did your dad and Horace own it at
16:26:06 3 the time that certain waste was being put into
16:26:08 4 it before it was donated to the University of
16:26:08 5 Dayton?

16:26:11 6 A. It was a very -- the Miami
16:26:17 7 Conservative owned it, and then when the deal
16:26:19 8 was made for the property to be turned over to
16:26:22 9 UD, they kind of traded.

16:26:26 10 Dad and Horace received land along
16:26:29 11 the river to get topsoil off of it from the
16:26:34 12 Miami Conservative thing, and then in turn, UD
16:26:41 13 land for the arena was donated -- how did that
16:26:46 14 go?

16:26:47 15 Dad had a -- no, Miami
16:26:52 16 Conservative, Dad had purchased along the river
16:26:54 17 years ago, and then he switched it with -- so
16:26:57 18 it could be part of the river, Miami
16:27:00 19 Conservative, traded it for where the arena is,
16:27:04 20 and so Horace -- Horace Boesch, Jr., wrote up
16:27:09 21 the contract for that, if that makes any sense.

16:27:12 22 Q. Okay. When you say Miami --

16:27:15 23 MR. EDDY: If I could interrupt for a
16:27:17 24 second, Mr. Grillot. Were you saying conservative
16:27:18 25 or conservation?

16:27:19 1 MR. HAUGHEY: I'm correcting that.

16:27:20 2 I'll get that.

16:27:20 3 MR. EDDY: All right.

16:27:20 4 MR. HAUGHEY: Thank you.

16:27:22 5 BY MR. HAUGHEY:

16:27:22 6 Q. You're referring to the Miami

16:27:26 7 Conservancy District, aren't you?

16:27:26 8 A. Yes. Yes.

16:27:26 9 Q. Yeah. Okay. All right.

16:27:28 10 MR. EDDY: Thank you.

16:27:28 11 BY MR. HAUGHEY:

16:27:28 12 Q. Thank you. What I'm trying to

16:27:29 13 understand is did your dad and Horace own the

16:27:35 14 land that at one time became UD Arena and did

16:27:39 15 they own it at a time when they also used it

16:27:43 16 for waste disposal?

16:27:43 17 A. No.

16:27:46 18 Q. Okay. Did they buy it after waste

16:27:50 19 disposal had already stopped?

16:27:52 20 A. The site had not been finished as

16:27:54 21 a landfill, so where the parking lot was, it

16:27:58 22 was still a big crater. So there was two

16:28:03 23 different properties at that location, but it

16:28:05 24 had ceased when it was purchased or traded.

16:28:09 25 Q. Okay. So if I remember your --

16:28:12 1 your previous testimony correctly, what you're
16:28:14 2 saying is that that was another alternative
16:28:16 3 dumpsite for a period of time before it was
16:28:19 4 closed and then sold to or given to Dayton?

16:28:21 5 A. Correct.

16:28:21 6 Q. Okay. Did it have a name when it
16:28:26 7 was a dumpsite?

16:28:27 8 A. Not to my knowledge, no.

16:28:28 9 Q. Okay. All right. Did you mention
16:28:31 10 something yesterday about Shadytown?

16:28:35 11 A. That was way in -- like in the
16:28:39 12 '20s, '30s. That was part -- that was the main
16:28:42 13 dump, I guess, for Dayton and --

16:28:46 14 Q. Okay. Are we talking about the
16:28:47 15 same site then? Was this site -- this site was
16:28:49 16 at one time called the Shady dumpsite?

16:28:51 17 A. Right.

16:28:52 18 Q. Okay. So that's the name. Okay.
16:28:53 19 And I -- if I'm correct, you said it was open
16:28:55 20 in the '60s as well, correct, for dumping?

16:28:59 21 A. No, I think it was opened, I just
16:29:01 22 mentioned, way before the '20s, I think.

16:29:05 23 Q. Okay. And when did -- to the best
16:29:07 24 of your recollection, did the Shady dumpsite
16:29:12 25 that is now UD Arena stop taking waste and

16:29:16 1 close?

16:29:16 2 A. Well, the Shadytown was more on
16:29:25 3 the Welcome Stadium area, so where the arena
16:29:31 4 was I would not -- or where we're talking about
16:29:33 5 being dumped in the '70s and '80s would be at
16:29:37 6 two different lo -- or be the same area, but
16:29:40 7 would be other property that had to be either
16:29:44 8 traded or sold.

16:29:45 9 Q. Okay. So if I'm understanding
16:29:49 10 your -- your testimony correctly, what you're
16:29:50 11 saying is there were actually two different
16:29:53 12 parcels around the UD Arena that at one time or
16:30:00 13 another were used for waste disposal, correct,
16:30:03 14 or at least multiple parcels?

16:30:05 15 A. Right.

16:30:07 16 Q. Okay. All right. And depending
16:30:07 17 on the parcel, one or more may have been open
16:30:11 18 all the way into the '20s, and others only in
16:30:13 19 the '70s and into the '80s?

16:30:15 20 A. Yes.

16:30:15 21 Q. Okay. All right. So as -- as the
16:30:19 22 crow flies, those parcels are only a couple
16:30:23 23 blocks away from the University of Dayton,
16:30:25 24 correct?

16:30:25 25 A. Correct.

16:30:26 1 Q. Do you know who the haulers were
16:30:32 2 who hauled waste to those particular sites
16:30:37 3 while they were taking waste?

16:30:39 4 A. No.

16:30:39 5 Q. And do you know if people were
16:30:41 6 allowed to come and just dump on their own or
16:30:44 7 whether they had to use a hauler?

16:30:46 8 A. I don't know that.

16:30:47 9 Q. Okay. Are there any other
16:30:51 10 dumpsites, Mr. Grillot, that you remember being
16:30:57 11 open in and around the Dayton area in the '60s,
16:31:00 12 other than those we've talked about?

16:31:02 13 A. Yes, one more.

16:31:03 14 Q. Okay. And what was that?

16:31:05 15 A. I don't know the name of it, but
16:31:06 16 it was on either Vance or West River Road.

16:31:10 17 Q. Okay. Well, we talked about the
16:31:12 18 Vance Road Landfill.

16:31:13 19 A. Is it --

16:31:14 20 Q. Yeah, and you said it was already
16:31:17 21 open -- it was open from the '60s into the
16:31:20 22 '70s.

16:31:20 23 A. Okay.

16:31:21 24 Q. Yeah, you mentioned that one.

16:31:21 25 A. Okay.

16:31:22 1 Q. Are we talking about the same one
16:31:23 2 or was there another one?

16:31:25 3 A. That's the same one.

16:31:25 4 Q. Okay. All right. Okay. All
16:31:27 5 right. Now, I believe you testified yesterday
16:31:34 6 that the only two haulers who used the South
16:31:39 7 Dayton Dump site were Container Service and
16:31:43 8 General Refuse, general haulers, correct?

16:31:46 9 A. Please, could you rephrase that?

16:31:47 10 Q. Right. Yeah. As I -- as I
16:31:49 11 remember your testimony yesterday, the two
16:31:51 12 haulers -- general haulers who used the South
16:31:55 13 Dayton Dump site were Container Services and
16:31:58 14 General Refuse.

16:31:58 15 A. Yes.

16:31:58 16 Q. Okay. All right. So -- all
16:32:01 17 right. Now, with respect to the keys, what was
16:32:08 18 Mr. Brandon's connection to the north -- or to
16:32:15 19 the Powell Road Landfill?

16:32:17 20 A. What was his --

16:32:19 21 Q. Yeah, what was his connection?
16:32:20 22 Did he have a connection to that landfill?

16:32:22 23 A. I believe if he didn't own it, he
16:32:23 24 was the CEO of it, you know.

16:32:26 25 Q. Okay. So does that then explain

16:32:28 1 why keys would be available that would work at
16:32:32 2 both the South Dayton Dump site and at the
16:32:34 3 Powell Road site, correct?

16:32:36 4 A. Right.

16:32:36 5 Q. Okay. All right. So if you were
16:32:38 6 a hauler, Container Services or General Refuse,
16:32:44 7 and you were picking up on the north side of
16:32:45 8 Dayton, you could go into Powell Road as
16:32:48 9 opposed to drive all the way down to South
16:32:50 10 Dayton Dump, correct?

16:32:52 11 A. Other than what you were hauling.

16:32:54 12 Q. Right.

16:32:54 13 A. Yeah.

16:32:55 14 Q. Right. All right. Okay. Now, do
16:33:09 15 you know if haulers other than -- do you know
16:33:16 16 if other haulers around the Dayton area, like
16:33:23 17 IWD, Koogler, maybe Blaylock and some others,
16:33:27 18 would they have keys for landfills that they
16:33:29 19 were affiliated with?

16:33:29 20 A. No.

16:33:32 21 Q. Okay. So how would you know that?
16:33:35 22 How would you know whether Koogler had, for
16:33:37 23 example, keys to the landfills that were close
16:33:40 24 to where it did all of its hauling?

16:33:43 25 A. I would not know that.

16:33:43 1 Q. Okay. So the answer is you don't
16:33:43 2 know?

16:33:43 3 A. No.

16:33:43 4 Q. Okay. All right. I mean, I'm
16:33:49 5 just -- I'm curious, do you -- do you know if
16:33:50 6 other haulers had arrangements with other
16:33:53 7 landfills where they were allowed to come in
16:33:56 8 after hours and dump when the landfills were
16:33:56 9 closed?

16:34:01 10 A. I do not.

16:34:01 11 Q. Okay. All right. Okay. Just
16:34:28 12 give me a moment here. I've got to -- I need
16:34:31 13 to get this all arranged here. Excuse me for a
16:34:34 14 moment.

16:34:40 15 So I believe you testified that
16:34:44 16 Larry Brandon had an ownership interest in
16:34:48 17 Container Services, is that correct?

16:34:52 18 A. I don't know if he had ownership,
16:34:54 19 but they -- this -- all three entities was at
16:35:02 20 the same location, and they all seemed to have
16:35:06 21 the same -- what word do I use -- power, you
16:35:15 22 know, to give people orders, so they --

16:35:19 23 Q. Okay. Do you know what the
16:35:21 24 service area was for Container Service? Do you
16:35:26 25 know how far away from the South Dayton Dump it

16:35:29 1 would generally go to pick up trash and bring
16:35:32 2 it back to South Dayton?

16:35:34 3 A. Well, the General Refuge went as
16:35:42 4 far north as Union, Ohio.

16:35:44 5 Q. Okay. And if it picked up at
16:35:52 6 Union, which is north of Dayton, are you
16:35:54 7 telling me it would drive down to the South
16:35:58 8 Dayton Dump site rather than Powell Road, which
16:35:59 9 is on the north side of Dayton?

16:36:02 10 A. Well, when Powell Road was open,
16:36:05 11 that was where it went, but other than that,
16:36:07 12 because it was garbage, I would assume it would
16:36:15 13 go to Baylock -- Baylock's over -- the one on
16:36:16 14 South Dixie.

16:36:16 15 Q. Okay. What about Container
16:36:19 16 Service, did they pick up generally south of
16:36:24 17 Dayton or did they have a service area on all
16:36:27 18 sides of Dayton?

16:36:29 19 A. Pretty much all sides.

16:36:31 20 Q. And when you say the same thing
16:36:33 21 that as long as there was another landfill like
16:36:36 22 Powell open at the time on the north side of
16:36:38 23 Dayton and it was closer, they'd go there
16:36:40 24 first?

16:36:40 25 A. Depending upon what they were

16:36:44 1 hauling.

16:36:44 2 Q. Right.

16:36:44 3 A. But most of it was skids and stuff
16:36:47 4 like that, so they would go to South Dayton
16:36:47 5 Dump.

16:36:50 6 Q. Okay. And the reason you would
16:36:51 7 bring skids to South Dayton is because you had
16:36:53 8 a way to recycle them and make money and so you
16:36:56 9 brought them all there, correct?

16:36:57 10 A. Most -- that, and burn them.

16:36:59 11 Q. You burned them?

16:37:00 12 A. They could burn them in the
16:37:02 13 incinerator -- incinerator.

16:37:02 14 Q. Okay. Thank you. Okay. I don't
16:37:11 15 know how to -- I don't want to turn -- I don't
16:37:14 16 want you to get emotional on me again, because
16:37:17 17 I need to understand more about the situation
16:37:19 18 with the University of Dayton, because that's
16:37:23 19 one of our clients.

16:37:25 20 Yesterday during your testimony in
16:37:28 21 the morning, you testified that you did not
16:37:31 22 remember that the University of Dayton sent any
16:37:34 23 waste to the site.

16:37:35 24 And then about 15 minutes later
16:37:37 25 after a break, you came in and recanted that

16:37:41 1 testimony and said you remembered University of
16:37:44 2 Dayton being a customer. Do you remember that
16:37:46 3 sequence?

16:37:47 4 A. After thinking about it during
16:37:50 5 that break time, I remembered some -- yeah.

16:37:53 6 Q. Okay. And did you talk with
16:37:58 7 anyone during that break to help you remember
16:38:01 8 that you had misremembered?

16:38:02 9 A. No.

16:38:02 10 Q. Okay. Do you remember testifying
16:38:07 11 yesterday that you had a lack of memory because
16:38:13 12 you were having difficulty separating your
16:38:16 13 personal grudge or personal animosity involving
16:38:21 14 University of Dayton, do you remember that?

16:38:23 15 A. Yes.

16:38:23 16 MR. ROMINE: Objection to the word
16:38:25 17 grudge as vague.

16:38:26 18 THE WITNESS: Yes.

16:38:27 19 BY MR. HAUGHEY:

16:38:27 20 Q. Okay. Is there a building at the
16:38:33 21 University of Dayton that has Horace Boesch's
16:38:37 22 name on it?

16:38:38 23 A. Yes.

16:38:39 24 Q. Okay. Is that part of the -- the
16:38:45 25 ill will that you harbor for the University of

16:38:48 1 Dayton?

16:38:48 2 A. Like I mentioned today --

16:38:51 3 Q. Yeah.

16:38:51 4 A. -- which I got real emotional

16:38:56 5 about, I thought that it would carry the name

16:39:00 6 Grillot/Boesch, because they were partners, and

16:39:04 7 so I thought Dad got -- our family got the

16:39:07 8 short end of the stick, so --

16:39:08 9 Q. Where is that building? Is it on
16:39:10 10 campus?

16:39:11 11 A. No, I -- Boesch Hall, I think, is
16:39:15 12 in the Donohoe Center. It's part of the
16:39:20 13 athletic -- where they shower and workout and
16:39:25 14 stuff like that.

16:39:25 15 Q. Okay. So it's a room or a series
16:39:28 16 of rooms at -- in the University of Dayton
16:39:28 17 Arena?

16:39:32 18 A. I believe so, yes.

16:39:33 19 Q. Okay. And is it then your
16:39:39 20 feelings about it have to do with the fact
16:39:40 21 that at the time of the donation, it was a
16:39:44 22 joint donation between your dad and Horace
16:39:44 23 Boesch?

16:39:47 24 A. His widow, yes.

16:39:49 25 Q. Right. Okay. And so your family

16:39:52 1 being part of the donating group did not get
16:39:54 2 any credit, correct?

16:39:55 3 MR. ROMINE: Asked and answered.

16:39:56 4 THE WITNESS: Correct.

16:39:57 5 BY MR. HAUGHEY:

16:39:57 6 Q. Okay. Okay. I understand. Now,
16:40:02 7 you testified that you saw trash or waste at
16:40:11 8 the Dayton dumpsite from the University of
16:40:13 9 Dayton, do you remember that?

16:40:15 10 A. Yes.

16:40:16 11 Q. And I believe you testified that
16:40:20 12 it might have been some -- it was some desks?

16:40:24 13 A. File cabinets.

16:40:25 14 Q. File cabinets. Pretty much the
16:40:29 15 same type of waste that I believe you said came
16:40:32 16 from the Dayton School District, correct?

16:40:36 17 A. Correct.

16:40:36 18 Q. All right. How did you separate
16:40:42 19 the waste as coming from University of Dayton
16:40:46 20 or from another school or from a school
16:40:52 21 district or coming from the demolition of a
16:40:54 22 commercial building that had desks in it?

16:40:57 23 How did you -- how -- what made
16:40:59 24 you believe it was from Dayton -- University of
16:41:03 25 Dayton?

16:41:03 1 A. Well, from the Dayton Schools --

16:41:06 2 Q. No, no, University of Dayton.

16:41:08 3 A. Oh, the university.

16:41:09 4 Q. Yeah. I'm sorry. Yeah. Give

16:41:09 5 me -- what made you think it was from the

16:41:12 6 University of Dayton versus some other source?

16:41:16 7 A. I think other than the books would

16:41:19 8 have been the only indication.

16:41:21 9 Q. Well, I want to get it clear. You

16:41:24 10 testified earlier that the Dayton School

16:41:29 11 District sent books, but you've never testified

16:41:31 12 either yesterday or in your 2012 deposition

16:41:33 13 that any books came to the site from the

16:41:36 14 University of Dayton.

16:41:37 15 A. Then I don't remember.

16:41:38 16 Q. Okay. So you really don't know

16:41:40 17 how you -- you just -- okay. That's fine. All

16:41:42 18 right. Yeah, I should shut up and move on.

16:41:47 19 Okay. Thank you.

16:41:48 20 MR. COUGHLIN: We're not allowed to

16:41:49 21 stipulate, are we?

16:41:55 22 MR. HAUGHEY: Oh, God, I walked into

16:41:56 23 that one.

16:41:57 24 MR. COUGHLIN: I withdraw that

16:42:01 25 nastily, good-natured comment.

16:42:03 1 MR. HAUGHEY: Asked and answered.

16:42:05 2 All right. Sorry about that.

16:42:05 3 BY MR. HAUGHEY:

16:42:06 4 Q. All right. Let's talk about

16:42:09 5 Standard Register. Okay. You testified in

16:42:14 6 2012 that NCR sent trash that consisted of old

16:42:20 7 cash register parts, adding machines, paper

16:42:23 8 rolls and -- to the site, correct?

16:42:26 9 A. Correct.

16:42:26 10 Q. Okay. You also said that you

16:42:30 11 thought that other trash like that could have

16:42:37 12 been Standard Register or National Cash

16:42:39 13 Register or NCR, correct?

16:42:40 14 A. Correct.

16:42:41 15 Q. And do you remember testifying

16:42:43 16 that you really couldn't tell the difference

16:42:45 17 between the two, correct?

16:42:46 18 A. Correct.

16:42:46 19 Q. Okay. And that's still your

16:42:48 20 testimony today, correct?

16:42:50 21 A. Correct.

16:42:52 22 Q. Okay. Okay. Let's talk about

16:42:59 23 Coca-Cola. All right. Now, I believe you

16:43:04 24 testified yesterday that you liked seeing old

16:43:10 25 pop bottles and things in the landfill because

16:43:13 1 they -- some of them you could keep for
16:43:16 2 souvenirs and sometimes you would look and see
16:43:17 3 what was under the cap. Do you remember that
16:43:19 4 testimony?

16:43:19 5 A. Yes.

16:43:19 6 Q. All right. Okay. Is that -- is
16:43:23 7 that the source of your recollection of waste
16:43:27 8 coming to the site from Coca-Cola, the fact
16:43:29 9 that you saw bottles at the site and saw some
16:43:36 10 of the old wooden crates at the site? Is that
16:43:39 11 the source of your recollection?

16:43:40 12 A. And then the syrup.

16:43:42 13 Q. And the syrup?

16:43:44 14 A. Yes.

16:43:44 15 Q. Okay. All right. Now, let's see
16:43:48 16 if I get this right. Okay. If I'm a
16:43:51 17 business -- if I'm a restaurant in Dayton or I
16:43:58 18 am a bar in Dayton, I would most likely serve
16:44:03 19 some sort of Pepsi or Coca-Cola products,
16:44:06 20 correct?

16:44:06 21 A. Correct.

16:44:06 22 MR. ROMINE: Objection. Objection to
16:44:06 23 the form.

16:44:08 24 THE WITNESS: Right.

16:44:08 25 BY MR. HAUGHEY:

16:44:08 1 Q. Okay. So why would you think
16:44:13 2 that -- and at the same time, if I'm a
16:44:16 3 restaurant or a bar, I would buy those products
16:44:20 4 as well and have them available for my
16:44:23 5 customers, right?

16:44:23 6 MR. ROMINE: Objection to the
16:44:24 7 hypothetical.

16:44:24 8 MR. COUGHLIN: Excuse me. Let the
16:44:24 9 record reflect --

16:44:27 10 MR. HAUGHEY: Yeah. I mean, David,
16:44:27 11 if you touch him again, I'm going to have you
16:44:30 12 moved. Do you understand me? You are not his --

16:44:32 13 MR. ROMINE: What do you mean, moved?

16:44:33 14 MR. HAUGHEY: Moved away from him.
16:44:34 15 You are not his lawyer. I'm sorry. I mean, with
16:44:37 16 all due respect, you're not his lawyer. Don't you
16:44:40 17 touch him again. I mean, I mean it. Don't --
16:44:44 18 please don't do that because you're not his
16:44:46 19 lawyer, so -- this is between me and him, okay?

16:44:48 20 I mean, please agree with me or we
16:44:51 21 will have to escalate it to another level.

16:44:53 22 MR. ROMINE: No, no, no, I will not
16:44:54 23 agree to that. I was touching the witness because
16:44:59 24 earlier there was some request made of the witness
16:45:05 25 that he give me time to object, and he did that

16:45:14 1 for a little while, and then the last five minutes
16:45:17 2 or so he has not been giving me that time to
16:45:21 3 object.

16:45:22 4 So I touched him to indicate to him
16:45:23 5 that he was talking before I had the chance to
16:45:26 6 object, and, therefore, the court reporter could
16:45:29 7 not take down both your question and his answer
16:45:33 8 and my objection simultaneously.

16:45:34 9 MR. HAUGHEY: Okay. So you -- for
16:45:36 10 the record, you were not touching him to prompt
16:45:39 11 his answer?

16:45:39 12 MR. ROMINE: I was touching him so
16:45:41 13 that -- my intention was touching him so that I
16:45:43 14 would have time to object.

16:45:46 15 MR. HAUGHEY: Okay. Then we're
16:45:47 16 clear, but please make your objection, don't touch
16:45:51 17 him. Make your objection and we'll sort it out.
16:45:51 18 BY MR. HAUGHEY:

16:45:55 19 Q. And I'll remind you, Edward,
16:45:57 20 please let me finish, pause for a second and
16:46:01 21 then let David, if he has an objection, give
16:46:03 22 his objection so that I don't have to be
16:46:05 23 worried about whether he's prompting you when
16:46:07 24 he touches you, okay?

16:46:07 25 A. Okay.

16:46:07 1 Q. Okay. All right. Thank you.
16:46:12 2 Now -- so I believe what we were talking about
16:46:15 3 was that Coca-Cola and Pepsi and 7-Up would
16:46:20 4 sell to lots of customers in the Dayton area,
16:46:22 5 correct?

16:46:28 6 A. Right.

16:46:28 7 MR. ROMINE: Objection.
16:46:34 8 Hypothetical.

16:46:34 9 THE WITNESS: Yes.

16:46:34 10 (Thereupon, the court reporter
16:46:34 11 interrupted the proceedings.)

16:46:34 12 BY MR. HAUGHEY:

16:46:35 13 Q. Okay. Now, you and I grew up in
16:46:39 14 the Dayton area, so I remember the old wooden
16:46:43 15 crates being dropped off. In fact, my
16:46:45 16 grandfather had a bar/tavern on Xenia Avenue.
16:46:49 17 So, anyway.

16:46:51 18 So we -- those would come in and
16:46:54 19 then they would be used and then the bar or the
16:46:56 20 customer would have to get rid of that waste,
16:46:56 21 correct?

16:46:58 22 A. Correct.

16:46:58 23 Q. Okay. So the fact that you saw
16:47:03 24 bottles at the site that had -- that were a
16:47:05 25 Coca-Cola bottle or an empty -- you know,

16:47:09 1 trays, you know, the old wooden carts or even
16:47:12 2 some syrup that went bad at a restaurant, it
16:47:14 3 could have come from them just as easily as it
16:47:17 4 could have come from Coca-Cola, correct?

16:47:20 5 A. Correct.

16:47:20 6 Q. Okay. All right. Thank you. I
16:47:29 7 believe you testified yesterday and again in
16:47:35 8 2012, that Duriron sent waste to the South
16:47:41 9 Dayton Dump site. Do you remember that?

16:47:42 10 A. Yes, I do.

16:47:43 11 Q. Now, I believe in your 2012
16:47:49 12 testimony, the only waste that you testified
16:47:51 13 coming to the site what was you called the hot
16:47:54 14 waste, correct?

16:47:58 15 A. Yes. Yes.

16:47:58 16 Q. On the Apollo vessels, as you
16:48:00 17 called them?

16:48:01 18 A. From -- from 2012?

16:48:01 19 Q. Yeah, from the 2012 deposition.

16:48:02 20 A. Okay. I believe that was -- yes.

16:48:03 21 Yeah.

16:48:03 22 Q. And then I believe yesterday you
16:48:06 23 testified about another stream called an oily
16:48:10 24 liquid.

16:48:10 25 A. Correct.

16:48:11 1 Q. Okay. All right. Now, how did
16:48:18 2 you -- how did you attribute the hot waste
16:48:23 3 coming to the site from Duriron?

16:48:28 4 A. Would you please rephrase that
16:48:30 5 question?

16:48:30 6 Q. Yeah. What was it about the waste
16:48:32 7 that made you attribute the hot waste as coming
16:48:37 8 from Duriron?

16:48:39 9 A. How did I know that?

16:48:41 10 Q. Yeah. What made you say, hey,
16:48:43 11 that's Duriron waste, the hot waste is Duriron
16:48:44 12 waste?

16:48:44 13 A. Because on the door it said
16:48:48 14 Duriron.

16:48:48 15 Q. Okay. I believe you also
16:48:51 16 testified yesterday that this hot waste would
16:48:56 17 come to the site on a regular basis?

16:48:59 18 A. Yes.

16:48:59 19 Q. Right. It was multiple times a
16:49:01 20 week.

16:49:01 21 A. Yes.

16:49:01 22 Q. Okay. All right. Would you look
16:49:04 23 at Defendants' Exhibit -- no, I'll tell you
16:49:10 24 what, I'll give you a new one.

16:49:12 25 MR. HAUGHEY: Let's mark off the --

16:49:13 1 this will be Defendants' Exhibit 5, am I correct?

16:49:16 2 Are we up to 5 or are we up to 6?

16:49:16 3 THE WITNESS: I think it's 6.

16:49:16 4 BY MR. HAUGHEY:

16:49:16 5 Q. All right. Why don't we start

16:49:23 6 off -- let's first look at Defendants'

16:49:25 7 Exhibit 1, okay?

16:49:25 8 A. Okay.

16:49:26 9 Q. And that's the map, and -- and I

16:49:28 10 believe you identified and agreed that I had

16:49:32 11 accurately set forth on that map the location

16:49:35 12 of Duriron marked as A off of Monument Avenue

16:49:42 13 versus the location of the South Dayton Dump

16:49:45 14 site, which I believe was marked as G. Do you

16:49:49 15 remember having that discussion with me?

16:49:51 16 A. Yes.

16:49:52 17 Q. Okay. All right. So -- so that's

16:49:54 18 what we're talking about. All right. Now, why

16:49:57 19 don't you set Plaintiffs' Exhibit -- or

16:50:02 20 Defendants' Exhibit 1 aside for a moment.

16:50:05 21 Okay. Did you -- did you know

16:50:07 22 that Duriron had its own landfill?

16:50:10 23 A. No, I did not know that.

16:50:12 24 Q. Did not -- did not know. You have

16:50:13 25 no recollection that Duriron had its own onsite

16:50:13 1 landfill?

16:50:16 2 A. No.

16:50:16 3 MR. ROMINE: Asked and answered.

16:50:16 4 Please --

16:50:16 5 BY MR. HAUGHEY:

16:50:17 6 Q. Okay.

16:50:17 7 MR. ROMINE: Please give me time to
16:50:19 8 object.

16:50:20 9 THE WITNESS: No.

16:50:20 10 BY MR. HAUGHEY:

16:50:20 11 Q. That's okay. If I could prove to
16:50:24 12 you that Duriron had its own onsite landfill,
16:50:28 13 would that change the recollection you --
16:50:30 14 your -- would that change your testimony?

16:50:32 15 MR. ROMINE: Objection.

16:50:33 16 Hypothetical. Go ahead.

16:50:33 17 THE WITNESS: No.

16:50:34 18 BY MR. HAUGHEY:

16:50:34 19 Q. It wouldn't?

16:50:36 20 A. No.

16:50:36 21 Q. So -- okay. So, in other words,
16:50:37 22 even if Duriron had its own onsite landfill,
16:50:40 23 you would still testify that your memory was
16:50:44 24 still that Duriron sent its waste down through
16:50:50 25 Dayton to the South Dayton Dump site rather

16:50:53 1 than going to their own site?

16:50:53 2 A. Yes.

16:50:56 3 Q. Okay. All right. I'm going to
16:50:58 4 hand you a document that I'm asking the court
16:51:00 5 reporter to mark as Defendants' Exhibit 6.

16:51:00 6 (Thereupon, Defendants' Exhibit
16:51:00 7 Number 6, Google map, was marked for purposes of
16:51:00 8 identification.)

16:51:00 9 BY MR. HAUGHEY:

16:51:32 10 Q. Okay. I'm going to represent to
16:51:34 11 you that this is a MapQuest or a Google
16:51:39 12 direction map showing the -- as site A, the
16:51:47 13 Duriron facility on Monument Avenue, and site B
16:51:50 14 as the South Dayton Dump site.

16:51:53 15 Would you look at the map and look
16:51:54 16 at the driving directions to the left and let
16:51:58 17 me know if you agree with what it represents?

16:52:02 18 A. Yes.

16:52:02 19 Q. Okay. All right. So let's talk
16:52:03 20 about that. You're talking about hot waste,
16:52:07 21 which I believe you said was so hot you had to
16:52:10 22 be careful with it because it could start
16:52:12 23 fires, correct?

16:52:12 24 A. Correct.

16:52:12 25 Q. And was it a solid hot waste or a

16:52:18 1 liquid hot waste?

16:52:18 2 A. Solid.

16:52:20 3 Q. Solid. Okay. And I believe you
16:52:22 4 testified in 2012 that it had -- it had steam
16:52:26 5 or smoke coming off of it, correct?

16:52:27 6 A. Correct.

16:52:28 7 Q. Okay. So let's look at it. What
16:52:31 8 did Duriron do? What was its business?

16:52:34 9 A. I believe it was a steel foundry.

16:52:42 10 Q. So you're telling me that multiple
16:52:45 11 times a week Duriron wouldn't use any own
16:52:52 12 landfill on some property, but would take hot
16:52:55 13 metal waste and drive it through Dayton down
16:53:01 14 approximately six miles and dump it at this
16:53:05 15 site?

16:53:05 16 MR. ROMINE: Objection. Asked and
16:53:06 17 answered.

16:53:06 18 THE WITNESS: Yes, I do.

16:53:08 19 BY MR. HAUGHEY:

16:53:08 20 Q. Okay. Okay. Wow. Okay. And --
16:53:24 21 okay. When was Interstate 75 built?

16:53:29 22 MR. ROMINE: Objection. Relevance.

16:53:32 23 BY MR. HAUGHEY:

16:53:32 24 Q. Go ahead.

16:53:32 25 A. I think the middle of the '60s.

16:53:36 1 Q. Okay. So if Duriron used I-75 for
16:53:40 2 this route, we're talking about almost seven
16:53:44 3 miles, correct?

16:53:45 4 A. Correct.

16:53:46 5 Q. Okay. So it's your testimony that
16:53:55 6 Duiron would send hot steaming metal waste
16:54:00 7 through downtown Dayton or on I-75 on a regular
16:54:06 8 basis to bring that hot waste and dump it at
16:54:11 9 your father's site, correct?

16:54:11 10 MR. ROMINE: Asked and answered
16:54:12 11 twice.

16:54:13 12 THE WITNESS: Correct.

16:54:13 13 BY MR. HAUGHEY:

16:54:22 14 Q. Okay. All right. All right.
16:54:25 15 Were there other foundries that sent waste to
16:54:31 16 the South Dayton Dump site for disposal?

16:54:35 17 A. Not to my recollection, no.

16:54:40 18 Q. Okay. With respect to Duriron, do
16:54:43 19 you remember ever filling out a dumping receipt
16:54:45 20 for Duriron?

16:54:48 21 A. I don't know. Don't remember.

16:54:50 22 Q. Okay. Do you remember seeing
16:54:52 23 Kenneth fill out a dumping receipt for Duiron?

16:54:55 24 A. I wouldn't know that.

16:54:56 25 Q. Okay. Based on the discussion we

16:55:01 1 had yesterday about what constitutes an
16:55:04 2 intermittent customer or a charge customer,
16:55:06 3 wouldn't Duriron delivering this hot waste two,
16:55:10 4 three times a week have been a regular
16:55:11 5 customer?

16:55:12 6 A. Yes.

16:55:12 7 Q. And wouldn't they have been a
16:55:14 8 charge customer?

16:55:17 9 A. I would assume, yes.

16:55:18 10 Q. Okay. All right. Let's talk
16:55:25 11 about some of the other foundries that sent
16:55:28 12 waste to the site. How about -- didn't NCR
16:55:31 13 have its own foundry at one time?

16:55:35 14 A. NCR?

16:55:36 15 Q. NCR.

16:55:39 16 A. If it did, I didn't have any
16:55:39 17 knowledge of it.

16:55:43 18 Q. Okay. So you don't know if
16:55:44 19 Duriron sent any -- what type of wastes are
16:55:47 20 generated from a foundry?

16:55:53 21 A. I don't know.

16:56:05 22 Q. What did this hot solid steaming
16:56:11 23 metal look like that was coming from the
16:56:16 24 Duriron company to the site?

16:56:17 25 MR. ROMINE: Asked and answered.

16:56:19 1 BY MR. HAUGHEY:

16:56:19 2 Q. I'm not asking what it looked
16:56:20 3 like. Go ahead, please answer. What did it
16:56:23 4 look like?

16:56:26 5 A. Separate from some other steel
16:56:31 6 hanging out of it, it would look like -- almost
16:56:44 7 like a porcelain or a marble-ish look. A lot
16:56:52 8 of reddish type of glaze on it.

16:56:55 9 Q. Okay. I believe you --

16:56:57 10 A. Because it was all stuck together
16:56:58 11 in one massive piece.

16:57:00 12 Q. Okay. Okay. I believe you
16:57:01 13 testified earlier that the Powell Road Landfill
16:57:08 14 was open at some point in the '60s on forward,
16:57:11 15 correct?

16:57:11 16 A. Correct.

16:57:12 17 Q. Okay. Now, if you look at
16:57:15 18 Defendants' Exhibit 1, the Powell Road Landfill
16:57:21 19 is a lot closer to the Duriron facility than
16:57:26 20 the South Dayton Dump site, correct?

16:57:29 21 A. Correct.

16:57:29 22 Q. Okay. If you look at the
16:57:33 23 Valleycrest Landfill on the map, which I
16:57:36 24 believe you called the North Sanitary Landfill,
16:57:37 25 that one was also located a lot closer to the

16:57:43 1 Duriron facility than the South Dayton Dump,
16:57:43 2 correct?

16:57:46 3 A. Correct.

16:57:46 4 Q. Okay. If I recall your testimony
16:57:52 5 correctly, you said that Powell Road was open
16:57:55 6 in the '60s, open in the '70s, and you don't
16:57:58 7 know about the '80s, correct?

16:58:02 8 MR. ROMINE: Asked and answered.

9 (Thereupon, the court reporter
10 interrupted the proceedings.)

11 BY MR. HAUGHEY:

12 Q. Okay. And at the Valleycrest --

13 MR. ROMINE: Asked and answered.

14 (Thereupon, the court reporter
15 interrupted the proceedings.)

16:58:07 16 MR. HAUGHEY: He said correct.

16:58:07 17 MR. ROMINE: Give me time to object.

16:58:07 18 THE WITNESS: Yeah.

16:58:07 19 (Thereupon, the court reporter
16:58:07 20 interrupted the proceedings.)

16:58:09 21 BY MR. HAUGHEY:

16:58:09 22 Q. And that the Valleycrest Landfill
16:58:18 23 was open at least in the '70s, correct?

16:58:22 24 MR. ROMINE: Same objection.

25 BY MR. HAUGHEY:

1 Q. Okay. Now, what logical reason --
2 (Thereupon, the court reporter
3 interrupted the proceedings.)

4 MR. HAUGHEY: He nodded.

16:58:59 5 MR. COUGHLIN: Off the record.

16:58:59 6 (Thereupon, an off-the-record
16:59:00 7 discussion was had.)

16:59:00 8 BY MR. HAUGHEY:

16:59:05 9 Q. Okay. So you can't think of any
16:59:07 10 logical reason why the Duriron company would
16:59:12 11 choose to go a much further distance away
16:59:14 12 through Dayton with this hot molten steaming
16:59:19 13 metal to get to your site as opposed to a
16:59:20 14 closer one, you know of no logical reason to
16:59:22 15 explain that, do you?

16:59:23 16 MR. ROMINE: Objection.
16:59:25 17 Hypothetical. Asked and answered three times.

16:59:26 18 THE WITNESS: Yes, I do.

16:59:26 19 BY MR. HAUGHEY:

16:59:26 20 Q. Okay. What logical reason would
16:59:28 21 Dayton -- would Duriron have to travel further
16:59:32 22 with this dangerous material than going to a
16:59:36 23 closer site?

16:59:37 24 A. Well, first of all, because it was
16:59:40 25 steaming hot, I would assume that they thought

16:59:42 1 it would be better to cool off a period before
16:59:46 2 it got to the -- the site.

16:59:47 3 And then the South Dayton Dump was
16:59:52 4 the largest hole. I don't know anything about
16:59:55 5 the size of the lot that's on Duriron, but
17:00:00 6 South Dayton Dump would have been a perfect
17:00:02 7 place, and Powell Road would not accept
17:00:06 8 something like that and neither would the
17:00:08 9 incinerators.

17:00:08 10 Q. Okay. And so what you're saying
17:00:12 11 is that Duriron would -- you think could have
17:00:16 12 logically chosen to send this dangerous
17:00:20 13 material through Dayton for a further distance,
17:00:24 14 because over that longer distance, it could
17:00:26 15 cool down in time and then it would be okay?

17:00:28 16 A. Correct.

17:00:28 17 Q. But that's not what you testified
17:00:30 18 to in 2012.

17:00:32 19 MR. ROMINE: Objection.

17:00:33 20 Argumentative.

17:00:33 21 BY MR. HAUGHEY:

17:00:33 22 Q. In 2012, you said it arrived at
17:00:37 23 the landfill steaming hot and had to be handled
17:00:40 24 carefully or people would be hurt or fires
17:00:43 25 could start.

17:00:43 1 MR. ROMINE: Objection.

17:00:45 2 Argumentative.

17:00:45 3 BY MR. HAUGHEY:

17:00:46 4 Q. Correct?

17:00:46 5 A. Correct.

17:00:46 6 Q. So when did the cooling -- so
17:00:48 7 apparently the distance between Duriron and the
17:00:52 8 South Dayton Dump site was not enough to cool
17:00:55 9 down and make safe this hot dangerous material?

17:00:58 10 MR. ROMINE: Objection.

17:00:59 11 Argumentative. Mischaracterizes his testimony.

17:01:01 12 THE WITNESS: Do you want me to say
17:01:03 13 what I think?

17:01:03 14 BY MR. HAUGHEY:

17:01:03 15 Q. Yeah. Sure.

17:01:04 16 A. I think it was a whole lot hotter
17:01:06 17 when it was in a cone than it -- you know, it
17:01:11 18 would probably shine like the sun. I don't
17:01:13 19 know. So I don't know how hot it was, I never
17:01:15 20 took the temperature of it, but when it came to
17:01:17 21 us, I'm sure it was a lot cooler because of the
17:01:20 22 ride and -- you know, through town.

17:01:22 23 Q. Okay. I'm going to hand you a
17:01:26 24 document that -- well, I guess we'll have to
17:01:32 25 mark it again. It was used as Deposition

17:01:35 1 Exhibit 28 in your 2012 deposition, and I'm
17:01:42 2 going to ask the court reporter to go ahead and
17:01:44 3 mark it as, I believe, Defendants' Exhibit 7?

17:01:47 4 A. Yeah.

5 MR. ROMINE: Correct.

6 MR. HAUGHEY: Okay. Thank you.

7 (Thereupon, Defendants' Exhibit
8 Number 7, photocopy of a color photograph of a
9 Container Service truck, was marked for purposes
10 of identification.)

17:02:10 11 BY MR. HAUGHEY:

17:02:11 12 Q. Do you remember, Edward, being
17:02:13 13 shown that exhibit at the time of your
17:02:16 14 deposition in 2012?

17:02:18 15 A. Yes.

17:02:18 16 Q. Do you remember testifying that
17:02:22 17 that was an example of a special truck that
17:02:24 18 would be used to deliver waste, this hot waste,
17:02:29 19 from Duriron?

17:02:30 20 A. Rephrase that again.

17:02:31 21 Q. Do you remember testifying in 2012
17:02:34 22 that the picture I'm showing you now was a
17:02:38 23 similar type of a truck to the one that you
17:02:43 24 believe Duriron sent its hot waste to the site
17:02:43 25 in?

17:02:47 1 A. Similar, yes.

17:02:47 2 Q. Yeah. Okay. All right. And is
17:02:48 3 that -- I believe there's a name on the top of
17:02:50 4 that calling it a lugger truck, is that
17:02:53 5 correct?

17:02:53 6 A. Lugger, yeah.

17:02:55 7 Q. Yeah.

17:02:55 8 A. Yes.

17:02:55 9 Q. All right. Okay. So I believe
17:02:58 10 you testified in 2012 that the truck you're
17:03:03 11 referring to for Duriron had -- was like the
17:03:07 12 one on the bottom of that picture with chains
17:03:10 13 on the sides, correct?

17:03:13 14 A. Correct.

17:03:13 15 Q. Okay. So -- and I believe you
17:03:16 16 testified in 2012 that this hot waste would be
17:03:21 17 swinging from those chains -- be suspended from
17:03:24 18 the chains, correct?

17:03:25 19 A. Correct.

17:03:26 20 Q. Okay. So it is your testimony
17:03:28 21 today that Duriron would take this dangerous
17:03:35 22 hot material swinging from chains and drive
17:03:39 23 five, six miles through downtown Dayton in
17:03:42 24 order to dump it at this site, correct?

17:03:42 25 MR. ROMINE: Objection. Asked and

17:03:44 1 answered four times.

17:03:45 2 THE WITNESS: Well, it was locked in
17:03:47 3 position, it wasn't hanging. I mean, it wasn't
17:03:49 4 swinging, but it was locked in position. Then
17:03:51 5 when you got there, he had to lower the lever to
17:03:54 6 release it and then tip it over, and somehow the
17:03:59 7 truck would dump it off, so I --

17:04:02 8 BY MR. HAUGHEY:

17:04:02 9 Q. Okay. Now, I believe you
17:04:06 10 testified that you believed it was Duriron
17:04:10 11 waste because you saw it on a Duriron -- you
17:04:13 12 saw the name Duriron on the side?

17:04:15 13 A. Correct.

17:04:15 14 Q. Okay. Was there a logo on the
17:04:17 15 side?

17:04:18 16 A. No.

17:04:19 17 Q. Okay. Do you know how to spell
17:04:26 18 the name Duriron?

17:04:27 19 MR. ROMINE: Objection. Asked and
17:04:29 20 answered.

17:04:29 21 THE WITNESS: No.

17:04:29 22 BY MR. HAUGHEY:

17:04:29 23 Q. Okay. Do you know -- well, the
17:04:38 24 only other waste that I remember you talking
17:04:40 25 about coming from Duriron was this oily waste.

17:04:44 1 A. Right. Correct.

17:04:44 2 Q. Okay. How did this waste get to
17:04:47 3 the site?

17:04:50 4 A. In a similar way, but the -- it
17:04:53 5 looked more like a container than -- than an
17:04:59 6 open pit.

17:05:00 7 Q. Okay. Would it come on a truck
17:05:03 8 that you thought was a Duriron truck because of
17:05:07 9 the name on the side?

17:05:08 10 A. Yes.

17:05:09 11 Q. Okay. All right. And do you know
17:05:13 12 what type of -- was it a coolant, a hydraulic
17:05:20 13 fluid, a waste oil or -- or just what was your
17:05:22 14 impression of what it was?

17:05:24 15 A. I wasn't really sure.

17:05:25 16 Q. Okay. Was it something that could
17:05:29 17 be salvaged and reused as oil somewhere else?

17:05:33 18 A. Not to my knowledge.

17:05:37 19 Q. Okay. Other than this hot waste
17:05:40 20 and the oily liquid, I understand your
17:05:43 21 testimony to be that Duriron sent no other
17:05:45 22 waste at all to this site, correct?

17:05:47 23 A. Correct.

17:05:48 24 Q. Okay. All right. Okay. Do you
17:05:57 25 remember testifying in 2012 that the

17:06:00 1 Dayton-Walther Company was a foundry that sent
17:06:05 2 waste to this site as well, correct?

17:06:10 3 A. I don't remember.

17:06:11 4 Q. Okay. Do you know what
17:06:15 5 Dayton-Walther did?

17:06:19 6 A. No. I'd say no.

17:06:24 7 Q. You don't know whether they --
17:06:27 8 didn't they make steel wheels and rims?

17:06:29 9 MR. ROMINE: Objection. Asked and
17:06:29 10 answered.

17:06:30 11 MR. HAUGHEY: I'm trying to help his
17:06:31 12 memory.

17:06:31 13 BY MR. HAUGHEY:

17:06:31 14 Q. Did they not make steel rims and
17:06:34 15 wheels?

17:06:35 16 MR. ROMINE: Objection. Asked and
17:06:35 17 answered.

17:06:36 18 THE WITNESS: Like I said, I don't --

17:06:36 19 BY MR. HAUGHEY:

17:06:38 20 Q. Okay. So that doesn't help your
17:06:39 21 memory?

17:06:39 22 A. No.

17:06:40 23 Q. All right. Thank you. Now, I --
17:06:46 24 when I was looking at your deposition in 2012,
17:06:49 25 you testified that a truck like those lugger

17:06:54 1 trucks was also used to deliver waste to the
17:06:59 2 site from Franklin Iron and Metal and Patterson
17:07:02 3 Iron and Metal. Do you remember giving that
17:07:04 4 testimony?

17:07:04 5 A. Correct.

17:07:05 6 Q. Okay. Do you know how far away
17:07:12 7 from the site Dayton-Walther was located?

17:07:15 8 A. Yes, it was south of South Dayton
17:07:23 9 Dump.

17:07:23 10 Q. Okay. About how far? Give me a
17:07:26 11 number of, let's say, city blocks.

17:07:29 12 A. Half a mile.

17:07:29 13 Q. Okay. Half mile. Okay. Didn't
17:07:32 14 you testify earlier today that your dad was
17:07:38 15 friends with the -- the Walther family?

17:07:41 16 A. Was that today? I --

17:07:42 17 Q. Yeah, today. Earlier today.

17:07:44 18 A. Yes.

17:07:44 19 Q. Yeah. Okay. And that it was like
17:07:46 20 family friends, as I recall -- as I remember
17:07:48 21 it, correct?

17:07:50 22 A. A close -- a close acquaintance
17:07:50 23 not a close friend.

17:07:54 24 MR. COUGHLIN: I'm sorry, what was
17:07:55 25 the answer?

17:07:55 1 THE WITNESS: A close acquaintance.

17:07:58 2 BY MR. HAUGHEY:

17:07:58 3 Q. Okay. All right. So am I to
17:08:02 4 believe that notwithstanding your knowing that
17:08:07 5 Dayton-Walther was a half mile at most away and
17:08:10 6 that Dayton-Walther was a close family friend
17:08:14 7 of your family, you have no idea what they did
17:08:18 8 as a business, is that correct?

17:08:20 9 MR. ROMINE: Objection.

17:08:20 10 THE WITNESS: Correct.

17:08:20 11 MR. ROMINE: Asked and answered.

17:08:20 12 THE WITNESS: Correct.

17:08:20 13 BY MR. HAUGHEY:

17:08:20 14 Q. That's still your testimony?

17:08:22 15 MR. ROMINE: Asked and answered.

17:08:23 16 THE WITNESS: My father might have
17:08:24 17 known, but I didn't.

17:08:24 18 BY MR. HAUGHEY:

17:08:25 19 Q. Okay. All right.

17:08:25 20 MR. ROMINE: Give me time to object.

17:08:27 21 THE WITNESS: Okay.

17:08:27 22 MR. ROMINE: Yeah. When he asks his
17:08:29 23 questions, just give me a moment, I might object,
17:08:29 24 I might not object.

17:08:32 25 THE WITNESS: Okay.

17:08:32 1 BY MR. HAUGHEY:

17:08:32 2 Q. Now, when you and I were talking
17:08:35 3 yesterday, we were talking about some other
17:08:39 4 people who worked at the landfill with you. Do
17:08:42 5 you remember us talking about that?

17:08:43 6 A. Yes.

17:08:44 7 Q. Okay. Do you remember us talking
17:08:47 8 about -- I believe it was Mike Wendling working
17:08:52 9 at the site as well?

17:08:53 10 A. Yes.

17:08:54 11 Q. Okay. And do you recall me asking
17:08:56 12 you that the -- the question, if he had to give
17:09:00 13 a deposition, that you would expect him to be
17:09:04 14 truthful, correct?

17:09:05 15 A. Correct.

17:09:05 16 Q. Now, if I told you that he had no
17:09:11 17 recollection of Duriron sending any waste to
17:09:15 18 the site, would you think he was lying?

17:09:17 19 MR. ROMINE: Objection.

17:09:18 20 Hypothetical.

17:09:19 21 THE WITNESS: No.

17:09:19 22 MR. HAUGHEY: Okay. Well, if we're
17:09:21 23 going to give hypotheticals, I'm happy to show him
17:09:23 24 the deposition, David. Would you want to spend
17:09:25 25 the time doing that?

17:09:26 1 MR. ROMINE: It's up to you.

17:09:27 2 MR. HAUGHEY: Okay. Then we might as
17:09:28 3 well do that.

17:09:28 4 BY MR. HAUGHEY:

17:09:30 5 Q. I'm going to hand you a document
17:09:32 6 which we will mark as Defendants' Exhibit 8,
17:09:39 7 which is the deposition that Mike Wendling gave
17:09:41 8 in the case.

17:09:41 9 (Thereupon, Defendants' Exhibit
17:09:41 10 Number 8, deposition of Michael A. Wendling, was
17:10:08 11 marked for purposes of identification.)

17:10:08 12 BY MR. HAUGHEY:

17:10:08 13 Q. Okay. Edward, could you please
17:10:10 14 turn to pages 60 to 62 starting at the bottom
17:10:19 15 of page 60? Yeah, these -- this deposition
17:10:27 16 format is in four pages per page, so the very
17:10:32 17 bottom of -- page 60 would be at the bottom of
17:10:38 18 the page that actually has four pages on it.

17:10:40 19 A. Yeah, I got it.

17:10:40 20 Q. Okay. Now, do you see at the
17:10:40 21 bottom there the question, are you familiar
17:10:42 22 with a company named Duriron? Duriron, yes.
17:10:44 23 And then there's a spelling of it.

17:10:46 24 Can you tell me a whole lot about
17:10:49 25 Duriron? No, not a whole lot. Do you see

17:10:49 1 that?

17:10:51 2 A. Um-hum.

17:10:51 3 Q. Okay. Would you carry on to the

17:10:52 4 next page? Question, do you remember whether

17:10:56 5 Duriron brought any waste to the South Dayton

17:11:00 6 Dump site? Answer, I'm not going to say.

17:11:04 7 Honestly, I don't recall.

17:11:04 8 A. Wait, wait, I'm not -- where you

17:11:04 9 at?

17:11:04 10 Q. The next page, page 61. Turn that

17:11:08 11 page over. Top of the page should be page 61.

17:11:10 12 A. Okay. And where you at?

17:11:12 13 Q. Page 61. Do you see the question

17:11:14 14 by Mr. Silver, do you remember whether Duriron

17:11:17 15 brought any waste to the South Dayton Dump?

17:11:21 16 Answer, I'm not going to say. I honestly don't

17:11:23 17 recall.

17:11:24 18 A. I'm still not -- well, wait, wait.

17:11:24 19 Mr. Silver. Okay.

17:11:24 20 Q. Okay.

17:11:29 21 A. Okay. Yeah, I found it. Okay.

17:11:32 22 Okay.

17:11:32 23 Q. Okay. Now, would you look down

17:11:35 24 that page and read further where Mr. Silver

17:11:38 25 then goes on to ask Mr. Wendling about people

17:11:44 1 who use the same type of lugger truck with
17:11:49 2 chains on it and brought waste to the site.

17:11:51 3 Do you see that series of
17:11:53 4 questions and answers there on page 61 and
17:11:57 5 continuing on to page 62?

17:12:03 6 A. Yes.

17:12:03 7 Q. Okay. Do you see the question,
17:12:05 8 what company -- on page 62 -- if you can
17:12:09 9 recall, used those kinds of trucks to dump
17:12:12 10 waste at the site? Answer, to what I can
17:12:15 11 recall, would have been Franklin Iron and Metal
17:12:20 12 and Walther's, what I can recall. Do you see
17:12:21 13 that answer?

17:12:21 14 A. Yes.

17:12:22 15 Q. Okay. Then the next question, do
17:12:27 16 you remember Duriron using these kinds of
17:12:27 17 trucks? Answer, I can't see the name Duriron
17:12:30 18 on anybody's trucks.

17:12:33 19 Okay. So you have no reason to
17:12:37 20 believe that he would have lied during that
17:12:39 21 deposition, correct?

17:12:40 22 A. Correct.

17:12:41 23 Q. Okay. And you previously
17:12:42 24 testified you found him to be truthful?

17:12:45 25 A. Yes.

17:12:46 1 Q. Okay. All right. Thank you.

17:12:48 2 A. You want this back?

17:12:49 3 Q. No, why don't you hold onto it.

17:12:52 4 Thank you. Now, I believe you also testified

17:12:58 5 in your deposition that Franklin had its own

17:13:04 6 key to dump at night, correct?

17:13:08 7 A. I don't remember what -- I don't

17:13:08 8 remember.

17:13:11 9 Q. Okay. Why don't we look at one

17:13:14 10 other deposition from another employee. You

17:13:18 11 remember talking with me yesterday about Horace

17:13:23 12 Boesch, Jr.?

17:13:23 13 A. Right.

17:13:23 14 Q. Right. Okay. Why don't we do the

17:13:25 15 same thing we just did here. We'll do it with

17:13:28 16 Mr. Boesch's deposition as well. I'm going to

17:13:30 17 hand you a document which -- excuse me, are we

17:13:30 18 up to 10?

17:13:30 19 THE COURT REPORTER: 9.

17:13:30 20 BY MR. HAUGHEY:

17:13:40 21 Q. I'm going to hand you a document

17:13:41 22 which I'm asking to be marked as Defendants'

17:13:43 23 Exhibit 9, which is Mr. Boesch's deposition.

17:13:43 24 (Thereupon, Defendants' Exhibit

17:13:43 25 Number 9, deposition of Horace Boesch, Jr., taken

17:13:43 1 on the 28th day of February, 2006, was marked for
17:14:12 2 purposes of identification.)

17:14:12 3 BY MR. HAUGHEY:

17:14:12 4 Q. Okay. Do you have Defendants'
17:14:15 5 Exhibit 9 in front of you?

17:14:15 6 A. Yes, I do.

17:14:16 7 Q. Okay. On the very top left part
17:14:19 8 of page one, do you see there where it says
17:14:21 9 this is a videotaped deposition of Horace
17:14:21 10 J. Boesch, B-O-E-S-C-H, Jr.? Do you see that
17:14:32 11 at the top of page one, it says who the
17:14:34 12 deposition is of?

17:14:34 13 A. I don't see video, see where it --

17:14:35 14 Q. That's okay. Just take your time.
17:14:37 15 We're at page one. We're on the same four
17:14:40 16 pages, they're numbered --

17:14:43 17 A. This number is lined. Is there a
17:14:43 18 line there?

17:14:43 19 Q. Yeah. Look at numbers nine and
17:14:48 20 ten on page one there.

17:14:49 21 A. Well, there's nothing on ten, and
17:14:52 22 nine says Montgomery, Ohio. Do we have the
17:14:56 23 same paper?

17:15:06 24 Q. Yeah. No, we don't. We're
17:15:07 25 using -- we have the same deposition, but we

17:15:09 1 don't have the -- can I look at -- excuse me
17:15:14 2 for a moment. Can I look at yours to see if
17:15:14 3 it's --

17:15:14 4 A. Sure. Yes.

17:15:16 5 Q. Okay. Well, look at line 16 on
17:15:20 6 both of yours. It looks like I've got two
17:15:22 7 different versions of it. Line 16, and doesn't
17:15:25 8 line 16 confirm that that is, indeed, the
17:15:30 9 deposition of Horace Boesch, Jr.?

17:15:35 10 A. Yes.

17:15:36 11 Q. Okay. All right. Thank you. I'm
17:15:38 12 sorry for having two different formats.

17:15:40 13 A. That's okay.

17:15:40 14 Q. All right. Now, let's look at his
17:15:42 15 deposition, and let's see what he has to say.
17:15:45 16 Can you turn to page 25 of his deposition.

17:16:34 17 This is not going to work. We're
17:16:35 18 going to use my copy, because the formatting is
17:16:40 19 different. So when we're done here, we will
17:16:42 20 change and we'll put this one into the record
17:16:44 21 and I'll take off the tabs and we'll make this
17:16:47 22 one Defendants' Exhibit Number 9.

17:16:52 23 So I'm going to hand you, and,
17:16:53 24 again, apologize for the discrepancy with using
17:16:58 25 two different formats. Now, same question

17:17:00 1 there on pages 25 -- at the bottom of page 25
17:17:04 2 there's some highlighting in yellow.

17:17:08 3 Can you read that series --
17:17:12 4 doesn't that series of questions and answers
17:17:14 5 identify other sources of foundry waste coming
17:17:20 6 to the site including NCR?

17:17:21 7 A. Correct.

17:17:22 8 Q. Okay. Reading further -- can I
17:17:26 9 have it back just for a second?

17:17:27 10 A. Yes.

17:17:28 11 Q. Okay. And didn't it also identify
17:17:31 12 Dayton-Walther as sending foundry waste, same
17:17:38 13 location?

17:17:40 14 A. Yes.

17:17:40 15 Q. Okay. Now, turn to page 61.

17:17:42 16 A. 61?

17:17:53 17 Q. Yes.

17:17:53 18 A. Okay.

17:17:54 19 Q. Can you hand it back to me and
17:17:56 20 then I'll ask you the question and then give it
17:17:58 21 to you?

17:18:01 22 Okay. On the bottom of page 61
17:18:04 23 carrying onto page 62, can you identify the
17:18:09 24 companies that Mr. Boesch testified dumped at
17:18:15 25 night and dumped foundry waste at the site?

17:18:17 1 And tell me what those two
17:18:19 2 companies are and tell me if you agree that one
17:18:21 3 was the Dayton-Walther Corporation and one was
17:18:24 4 a company called Finn, F I N N?

17:18:27 5 MR. ROMINE: I object to the extent
17:18:27 6 you're asking him to -- to read the content of a
17:18:30 7 deposition testimony and ask him what it says.
17:18:33 8 BY MR. HAUGHEY:

17:18:33 9 Q. Yeah. No, I'm asking, you know,
17:18:36 10 do you agree that it represents the testimony
17:18:39 11 of Mr. Boesch that Dayton-Walther and a company
17:18:43 12 called Finn were also sending foundry waste to
17:18:47 13 this site, correct?

17:18:48 14 MR. ROMINE: Same objection.

17:18:54 15 THE WITNESS: It just --

17:18:54 16 BY MR. HAUGHEY:

17:18:59 17 Q. That's okay. I mean, does it --
17:19:00 18 does that highlighted text also -- in the
17:19:02 19 deposition of Mr. Boesch also identify
17:19:06 20 Dayton-Walther and Finn as having sent foundry
17:19:10 21 waste to the site?

17:19:11 22 A. And NCR, yes.

17:19:12 23 MR. ROMINE: Same -- same objection.

17:19:12 24 THE WITNESS: Yes.

17:19:12 25 BY MR. HAUGHEY:

17:19:13 1 Q. Okay. Now, turn to page 144 and
17:19:17 2 145. Here, I'll tell you what. I'll turn the
17:19:25 3 page to you. That way I can get the question
17:19:27 4 and then I'll hand it right back to you.

17:19:27 5 A. All right.

17:19:30 6 Q. Thank you.

17:19:30 7 MR. ROMINE: Please give me time
17:19:31 8 to --

17:19:31 9 THE WITNESS: Yeah. Yeah.

17:19:31 10 MR. ROMINE: Please give me time to
17:19:31 11 object after he asks his questions.

17:19:34 12 BY MR. HAUGHEY:

17:19:34 13 Q. Okay. All right. What I'd like
17:19:39 14 you to do is, on your own, look at the
17:19:42 15 highlighted text of Mr. Boesch's deposition,
17:19:46 16 highlighted in yellow, on pages 144 and
17:19:49 17 carrying onto page 145, and tell me if you
17:19:55 18 agree that that testimony -- if you have any
17:20:03 19 reason to -- any reason to dispute the accuracy
17:20:05 20 of that testimony.

17:20:07 21 A. Pardon me?

17:20:07 22 Q. Yeah. I want you to look at the
17:20:09 23 testimony on pages 144 and 145 that is
17:20:13 24 highlighted and tell me if there's any reason
17:20:16 25 to believe that Mr. Boesch is lying.

17:20:35 1 A. I don't believe he's lying, no.

17:20:36 2 Q. Okay. All right. Thank you. Do
17:20:40 3 you know if anyone else has given a deposition
17:20:44 4 who worked at the landfill along with you,
17:20:46 5 other than Mike Wendling and Horace Boesch,
17:20:52 6 Jr.?

17:20:52 7 A. Well, I think your information
17:20:58 8 isn't quite accurate. As far as Horace, to my
17:21:01 9 knowledge, if he worked at the dump, it had to
17:21:04 10 have been in the '30s or '40s.

17:21:05 11 Q. Okay. Well, how about if I --
17:21:07 12 Horace Boesch, Jr.

17:21:09 13 A. That's what I mean, I'm sorry,
17:21:11 14 junior, junior, junior.

17:21:11 15 Q. Right, right, junior would --
17:21:13 16 we're not talking about senior, we're talking
17:21:15 17 about junior.

17:21:15 18 A. Yeah, in the -- before my time,
17:21:18 19 before the '60s --

17:21:18 20 Q. Yeah. Yeah.

17:21:20 21 A. -- I don't remember. I made a
17:21:22 22 statement yesterday that his involvement on the
17:21:26 23 dump, to my knowledge, was only the erecting --
17:21:34 24 the disassembling and erecting of a certain
17:21:35 25 building they -- they got from Wright-Patterson

17:21:37 1 Air Force Base.

17:21:38 2 Q. Okay. But based on what we just
17:21:40 3 looked at in terms of his deposition testimony,
17:21:42 4 he seems to have a lot more knowledge about
17:21:45 5 waste disposal than what you think he has,
17:21:46 6 correct?

17:21:46 7 MR. ROMINE: Objection. Calls for
17:21:47 8 opinion.

17:21:48 9 THE WITNESS: At that time frame,
17:21:49 10 yes.

17:21:50 11 BY MR. HAUGHEY:

17:21:50 12 Q. Yes. Okay. Thank you.

17:21:50 13 A. Um-hum.

17:21:51 14 Q. All right.

17:21:51 15 MR. ROMINE: Steve, can you make as
17:21:55 16 an exhibit -- or mark as an exhibit the deposition
17:21:58 17 testimony that you put in front of him?

17:21:59 18 MR. HAUGHEY: I did. Yes, let's do
17:22:01 19 that. I'll tell you what. Why don't we do this,
17:22:03 20 David: Why don't I just wait till we're done,
17:22:06 21 because I'd like to wrap up, and then we'll fix
17:22:08 22 the discrepancy, and, again, I apologize for
17:22:12 23 having the wrong format.

17:22:12 24 BY MR. HAUGHEY:

17:22:13 25 Q. Okay. Let's talk a little bit --

17:22:15 1 I'm close to being done. I want to talk about
17:22:19 2 your memory. Edward, you have an amazing
17:22:21 3 memory of dates from the '60s, from 1960, when
17:22:26 4 you were eight, to early '70s, about what took
17:22:28 5 place at the landfill, correct?

17:22:30 6 A. Yes.

17:22:30 7 Q. Right. And you've testified over
17:22:32 8 the last couple of days about McCall's waste
17:22:37 9 starting in 1963 and ending in this day,
17:22:40 10 remember -- remember you had -- amazing.

17:22:43 11 So did -- does your memory also --
17:22:47 12 is your memory that good that you remember
17:22:49 13 other things that occurred in the '60s as well?

17:22:53 14 How about, you know, some of the
17:22:55 15 bigger events, the national, the worldwide
17:22:58 16 events that took place in the '60s, do you
17:22:58 17 remember those?

17:23:00 18 A. Oh, yeah.

17:23:01 19 Q. Okay.

17:23:01 20 MR. ROMINE: Objection to relevance.

17:23:04 21 BY MR. HAUGHEY:

17:23:04 22 Q. All right. Do you remember what
17:23:07 23 year John F. Kennedy was elected?

17:23:09 24 MR. ROMINE: Objection. Relevance.

17:23:10 25 THE WITNESS: Elected?

17:23:10 1 BY MR. HAUGHEY:

17:23:11 2 Q. Elected, yeah.

17:23:11 3 A. I believe 1960.

17:23:13 4 Q. Do you remember when his brother,
17:23:17 5 Robert F. Kennedy, was assassinated?

17:23:19 6 MR. ROMINE: Same objection.

17:23:21 7 THE WITNESS: I believe '65 or '66.

17:23:25 8 BY MR. HAUGHEY:

17:23:26 9 Q. Okay. All right. Do you remember
17:23:30 10 if we -- do you remember what year in the '60s
17:23:33 11 we landed a man on the moon?

17:23:34 12 MR. ROMINE: Same objection.

17:23:45 13 THE WITNESS: I can only state it was
17:23:50 14 in the early '60s, but I don't have the definite
17:23:53 15 date. It was the early '60s.

17:23:55 16 BY MR. HAUGHEY:

17:23:55 17 Q. Okay. Do you remember when
17:23:58 18 John F. Kennedy was assassinated?

17:24:00 19 MR. ROMINE: Same objection.

17:24:02 20 THE WITNESS: Yeah, '63, I believe.

17:24:03 21 BY MR. HAUGHEY:

17:24:03 22 Q. Okay. Do you remember when the
17:24:10 23 Civil Rights riots occurred in Dayton?

17:24:12 24 MR. ROMINE: Same objection.

17:24:20 25 THE WITNESS: I believe it to be '64,

17:24:21 1 '65, but I'm leaning more towards '65 called the
17:24:26 2 '65 riots of -- like in Detroit and so on.

17:24:26 3 BY MR. HAUGHEY:

17:24:29 4 Q. All right. Okay. Thank you. All
17:24:30 5 right. Now, did Bill Walsh or Larry Silver or
17:24:39 6 David ever help you with your memory of the
17:24:44 7 customers who used this site?

17:24:44 8 A. No.

17:24:46 9 Q. Did they ever correct a statement
17:24:49 10 you made about a customer at this site?

17:24:49 11 A. No.

17:24:54 12 Q. Okay. Did they ever tell you that
17:24:57 13 you said something different in your deposition
17:25:00 14 in 2012 than what you're saying today?

17:25:02 15 A. No.

17:25:03 16 Q. Okay. Now, your deposition notice
17:25:10 17 gives your address as Snow Hill, North
17:25:13 18 Carolina. Did you know that?

17:25:14 19 A. Correct.

17:25:14 20 Q. Okay. But yet you testified
17:25:18 21 earlier that you've been living up here for at
17:25:21 22 least the last year and a half, not in North
17:25:23 23 Carolina, correct?

17:25:24 24 A. Correct.

17:25:25 25 Q. Okay. So that's not the correct

17:25:27 1 address for you anymore, Snow Hill, North
17:25:31 2 Carolina, correct?

17:25:33 3 A. Correct.

17:25:33 4 Q. Okay. All right. Now, the last
17:25:40 5 thing I have, you and I talked a lot yesterday,
17:25:45 6 and I specifically asked you if anyone was
17:25:50 7 paying for your hotel or lodging and food up
17:25:53 8 here for purposes of this deposition. Do you
17:25:56 9 remember me asking you that?

17:25:57 10 A. Um-hum.

17:25:57 11 Q. Yeah. And do you remember telling
17:26:00 12 me the answer was no?

17:26:03 13 A. No, I -- because I wouldn't have
17:26:07 14 lied, and I'd remember I -- it was -- I don't
17:26:09 15 know how it was paid for, okay?

17:26:12 16 Q. No, that -- that's not what I
17:26:13 17 asked you. What I recall asking you was, was
17:26:16 18 anyone paying for your hotel and meals for
17:26:19 19 purposes of this deposition and your saying no.

17:26:22 20 A. Oh, no, because I know better.

17:26:23 21 Q. Okay. So they are. Okay. So --

17:26:25 22 A. Um-hum.

17:26:26 23 Q. You just -- you may have
17:26:28 24 misremembered, is that what you're saying?

17:26:30 25 A. Or maybe I didn't understand the

17:26:32 1 exact way you worded it.

17:26:34 2 Q. Okay. Do you remember me also
17:26:38 3 asking you if you met with anyone else before
17:26:42 4 your deposition, other than Bill Walsh, and
17:26:44 5 your saying no?

17:26:48 6 A. But that wouldn't be consistent.
17:26:52 7 We had dinner. I think we talked about I had
17:26:54 8 dinner with -- but talking about deposition?
17:26:54 9 Yeah. No, I -- you know, no, no, no.

17:26:57 10 Q. That's what I meant, yeah. So it
17:26:58 11 may have been just a misunderstanding about --

17:26:59 12 A. Right.

17:27:00 13 Q. -- what you thought the question
17:27:01 14 was about?

17:27:01 15 A. Right.

17:27:02 16 Q. Okay. Do you recall the testimony
17:27:05 17 earlier about your receiving the two five
17:27:09 18 hundred dollar checks?

17:27:09 19 A. Correct.

17:27:10 20 Q. Did those checks state what they
17:27:13 21 were for?

17:27:13 22 A. Yes.

17:27:14 23 Q. What were they for?

17:27:16 24 A. Gas mileage and I think lodging
17:27:24 25 and food, I think, but I'm not sure about the

17:27:30 1 lodging and food.

17:27:31 2 Q. Okay. Both of them for the same
17:27:33 3 thing?

17:27:33 4 A. Correct.

17:27:34 5 Q. Okay. Why would you be paid
17:27:36 6 twice? Did you make two trips up here in 2012?

17:27:39 7 A. No, I went back to Snow Hill after
17:27:43 8 everything was done with the deposition and I
17:27:46 9 stayed -- stayed longer because I had -- people
17:27:48 10 had honey-do lists for me to do, so -- so I
17:27:53 11 think I moved down October -- it might have
17:27:58 12 been October of that year.

17:27:58 13 Q. Okay. I'm -- I'm confused.

17:27:58 14 A. No, no, no.

17:28:00 15 Q. You only came up one time for one
17:28:02 16 deposition in 2012, correct?

17:28:04 17 A. Correct, um-hum.

17:28:05 18 Q. Okay. Then why did you get two
17:28:08 19 five hundred dollar checks for mileage and
17:28:09 20 other expenses?

17:28:10 21 A. Because the trip coming up and the
17:28:12 22 trip going back.

17:28:13 23 Q. Really? So you made over a
17:28:17 24 thousand dollars for mileage for a trip up and
17:28:19 25 a trip back, correct?

17:28:21 1 A. Um-hum.

17:28:21 2 MR. EDDY: Is that a yes, just for
17:28:21 3 the record?

17:28:23 4 BY MR. HAUGHEY:

17:28:23 5 Q. Is that a yes for the record?

17:28:29 6 A. Yes. Do you want me to explain
17:28:31 7 why?

17:28:31 8 Q. If you want to, sure.

17:28:34 9 A. It was a RV, a motor home, and I
17:28:37 10 was pulling a trailer behind it. That's why it
17:28:40 11 took so much gas.

17:28:42 12 MR. HAUGHEY: Okay. I'd like to take
17:28:47 13 a moment to look at my notes to see if I have
17:28:50 14 anything else. Thank you. I do. Oh, no, just
17:28:54 15 give me another moment here. I want to make sure
17:28:58 16 I don't miss something. Thank you.

17:28:58 17 BY MR. HAUGHEY:

17:29:09 18 Okay. I have just -- do you remember
17:29:12 19 ever filling out of a dumping ticket for Standard
17:29:18 20 Register?

17:29:18 21 A. No.

17:29:18 22 Q. Okay. Do you remember seeing any?

17:29:21 23 A. No.

17:29:21 24 Q. Okay. Do you remember filling out
17:29:23 25 a dumping ticket for Coca-Cola?

17:29:27 1 A. No.

17:29:28 2 Q. Okay. Do you remember seeing them
17:29:30 3 in the pile?

17:29:33 4 A. Well, if you're talking about
17:29:34 5 sorting, yeah.

17:29:35 6 Q. No, no, no, dumping tickets. Do
17:29:37 7 you remember seeing dumping tickets with the
17:29:39 8 name Coca-Cola on them that maybe Kenneth would
17:29:43 9 have prepared?

17:29:43 10 A. Well, I made a statement yesterday
17:29:49 11 during the deposition that one of my jobs was
17:29:51 12 to staple them together, so I put Ds, Es, Fs,
17:29:58 13 but I really didn't pay attention of the name,
17:30:01 14 so --

17:30:01 15 Q. Okay. All right. So I just
17:30:02 16 wanted to confirm.

17:30:03 17 A. Okay.

17:30:06 18 MR. HAUGHEY: Just a moment. Thank
17:30:08 19 you.

17:30:08 20 (Pause in proceedings.)

17:30:43 21 MR. HAUGHEY: Thank you. I'm done.

17:30:47 22 MR. ROMINE: Do you want a break?

17:30:49 23 THE WITNESS: I'm okay if you want to
17:30:50 24 keep going.

17:30:50 25 MR. ROMINE: Okay.

17:30:51 1 THE WITNESS: Get it done.

17:30:52 2 MR. HAUGHEY: Yeah, we're off the
17:30:53 3 record. We want to fix the label for Defendants'
17:30:53 4 Exhibit 9, which I believe is the Boesch depo.

17:30:53 5 (Thereupon, Defendants' Exhibit
17:30:53 6 Number 10, deposition of Horace Boesch, Jr., taken
17:30:53 7 on December 1st, 2011, was marked for purposes of
17:31:48 8 identification.)

17:31:48 9 (Pause in proceedings.)

17:31:52 10 CROSS-EXAMINATION

17:31:52 11 BY MR. PIERCE:

17:37:02 12 Q. Mr. Grillot, my name is David
17:37:04 13 Pierce. I'm an attorney at Coolidge Wall. I
17:37:07 14 represent two companies. Fickert Devco and
17:37:11 15 Dayton Industrial Drum, okay?

17:37:11 16 A. Um-hum.

17:37:13 17 Q. I just have a few questions for
17:37:16 18 you. Famous words from a lawyer. Did I
17:37:18 19 understand you correctly yesterday to say that
17:37:21 20 you had actually gotten a job at A.E. Fickert
17:37:24 21 at some point in time?

17:37:25 22 A. Correct.

17:37:25 23 Q. Now, did you work directly for
17:37:28 24 A.E. Fickert or did you work for one of the
17:37:30 25 other drivers at A.E. Fickert?

17:37:31 1 A. I worked for A.E. Fickert.

17:37:32 2 Q. And for what period of time did
17:37:34 3 you work for A.E. Fickert?

17:37:41 4 A. I believe '69 and maybe part of
17:37:49 5 '70.

17:37:50 6 Q. Do you remember who your
17:37:51 7 supervisor was at A.E. Fickert?

17:37:54 8 A. Darrell Fickert.

17:37:56 9 Q. And what were your job duties?

17:38:00 10 A. I started out as a painter.

17:38:04 11 Q. And when you were painting, where
17:38:06 12 were you painting?

17:38:07 13 A. They do fire alterations, so
17:38:12 14 houses throughout Dayton that had been damaged
17:38:15 15 by wind or fire.

17:38:16 16 Q. Residential?

17:38:17 17 A. Correct.

17:38:18 18 Q. All right. And did you, in your
17:38:21 19 employment at A.E. Fickert, take materials to
17:38:24 20 the South Dayton Dump?

17:38:25 21 A. I personally did not.

17:38:27 22 Q. Over what period of time do you
17:38:30 23 recall A. E. Fickert taking materials to the
17:38:33 24 South Dayton Dump?

17:38:34 25 A. What time period?

17:38:36 1 Q. Yes.

17:38:39 2 A. It would have to been '67, '68,
17:38:45 3 somewhere in that time frame.

17:38:47 4 Q. And when did A.E. Fickert stop
17:38:49 5 taking materials to the South Dayton Dump?

17:38:51 6 A. It was during -- I was working
17:38:53 7 there, he got a big Dumpster, and I don't know
17:38:56 8 what they done with it after that, so --

17:38:56 9 Q. All right.

17:38:58 10 A. A roll on, pull on.

17:38:58 11 Q. So in -- during 1967 or 1968, A.E.
17:39:03 12 Fickert stopped taking materials to the South
17:39:05 13 Dayton Dump?

17:39:05 14 A. Around that time frame, yeah.

17:39:09 15 Q. And when they did take materials
17:39:17 16 to the dump, I think you said in your last
17:39:20 17 deposition that they were taking materials
17:39:22 18 maybe twice a week, something like that?

17:39:25 19 A. At most, yeah.

17:39:26 20 Q. All right. And the materials they
17:39:30 21 were taking were general construction debris,
17:39:33 22 that type of thing?

17:39:34 23 A. Correct.

17:39:36 24 Q. And do you know if A.E. Fickert
17:39:37 25 was also taking materials to other dumpsites?

17:39:41 1 A. I wouldn't have known that.

17:39:43 2 Q. All right. So they may have been
17:39:44 3 taking materials to EPA approved sites?

17:39:48 4 A. Correct.

17:39:50 5 Q. And when did Fickert stop -- or
17:39:54 6 start taking materials to the South Dayton
17:39:56 7 Dump? I think you gave me the end date. I
17:39:58 8 want to make sure I got the start date.

17:40:00 9 A. To my knowledge, it would have
17:40:03 10 been the '67, '68 period.

17:40:07 11 Q. All during that same time period
17:40:09 12 was the starting and stop?

17:40:10 13 A. Right.

17:40:10 14 Q. And the only trucks that you can
17:40:14 15 recall from A.E. Fickert were pickup trucks?

17:40:17 16 A. Correct.

17:40:18 17 Q. And which part of the site did
17:40:20 18 they take the materials to?

17:40:22 19 A. That would have been the second
17:40:23 20 tier.

17:40:25 21 Q. And what happened to the materials
17:40:26 22 when they were taken there?

17:40:28 23 A. It was burnt.

17:40:31 24 Q. Let's switch gears and talk about
17:40:34 25 Dayton Industrial Drum, if we can. In 2012,

17:40:38 1 you were asked about drums coming from the
17:40:41 2 Barrel Factory, do you recall that?

17:40:42 3 A. Yes, I do.

17:40:43 4 Q. And you were also asked back then
17:40:45 5 if you had heard of Dayton Industrial Drum, do
17:40:48 6 you recall that?

17:40:48 7 A. Yes.

17:40:48 8 Q. Back then, you didn't specifically
17:40:52 9 mention drums coming from Dayton Industrial
17:40:55 10 Drums to the South Dayton Dump, do you know
17:40:57 11 why?

17:40:59 12 A. I do not.

17:41:01 13 Q. Do you know specifically if drums
17:41:06 14 came from Dayton Industrial Drums rather than
17:41:10 15 the barrel company to the South Dayton Dump?

17:41:14 16 A. I believe because they would have
17:41:16 17 liquid in them, you know, that was my -- you
17:41:20 18 know.

17:41:20 19 Q. All right. I'm asking you
17:41:22 20 though -- you've talked about two companies,
17:41:23 21 the barrel company and Dayton Industrial Drum,
17:41:26 22 okay?

17:41:26 23 A. Um-hum.

17:41:28 24 Q. Yes?

17:41:29 25 A. Yes. Yes. Yes.

17:41:31 1 Q. And do you know whether the drums
17:41:33 2 that went to the South Dayton Dump came from
17:41:36 3 Dayton Industrial Drum as opposed to the barrel
17:41:36 4 company?

17:41:40 5 A. I don't know that.

17:41:41 6 Q. All right. So the drums -- all
17:41:43 7 the drums that may have come to the South
17:41:46 8 Dayton Dump, may have come from the barrel
17:41:48 9 company rather than Dayton Industrial Drum?

17:41:50 10 A. Could have, yes.

17:41:51 11 Q. And do you have any knowledge, as
17:41:55 12 you sit here today, as to those two companies
17:41:58 13 being the same?

17:42:02 14 A. Do I believe that?

17:42:03 15 Q. Do you have any knowledge that
17:42:05 16 they are the same?

17:42:05 17 A. No, I don't have any knowledge,
17:42:07 18 no.

17:42:07 19 Q. Did I hear you right yesterday to
17:42:14 20 say you did not recall the name Dayton
17:42:18 21 Industrial Drum until you were working at the
17:42:20 22 Powell Road Landfill?

17:42:22 23 A. I believe so.

17:42:24 24 Q. And when was that?

17:42:29 25 A. '70, 1970, somewhere in there.

17:42:32 1 Q. All right. So prior to 1970, you
17:42:34 2 don't even recall the name Dayton Industrial
17:42:40 3 Drum?

17:42:40 4 A. I'm not -- I don't remember.

17:42:46 5 Q. And how often were you at the
17:42:52 6 South Dayton Landfill after you started working
17:42:55 7 at Powell Road?

17:42:57 8 A. How long after?

17:42:58 9 Q. Yeah, how often -- I assume once
17:43:01 10 you started working at Powell Road, you would
17:43:03 11 come to the South Dayton Landfill less often.

17:43:06 12 A. Right.

17:43:07 13 Q. And how often would you come to
17:43:10 14 the South Dayton Landfill while you were
17:43:11 15 working at the Powell Road Landfill?

17:43:15 16 A. It would be evenings and weekends
17:43:17 17 until -- no, no, no. Evenings and weekends.

17:43:19 18 Q. All right. I want to talk then
17:43:24 19 about your knowledge of drums coming from the
17:43:26 20 Barrel Factory.

17:43:27 21 Back in 2012, you told Mr. Silver
17:43:30 22 that that was from talking to other drivers.
17:43:33 23 Do you recall that?

17:43:34 24 A. Correct.

17:43:35 25 Q. Do you have any personal knowledge

17:43:38 1 from your own eyes or your own ears of drums
17:43:42 2 coming from the Barrel Factory?

17:43:43 3 A. No.

17:43:43 4 Q. The trucks that you indicated
17:43:49 5 from -- that you thought were Dayton Industrial
17:43:52 6 Drums' trucks, they had no markings on them
17:43:55 7 whatsoever, did they?

17:43:55 8 A. No.

17:43:56 9 Q. And whether they were coming from
17:44:03 10 Dayton Industrial Drums or someone else, when
17:44:05 11 is the first time you can recall seeing drums
17:44:08 12 that indicated they were from Dayton Industrial
17:44:11 13 Drum?

17:44:11 14 A. Could you rephrase that again,
17:44:13 15 please?

17:44:13 16 Q. Sure. It's a confusing question.
17:44:15 17 When is the first time you can recall seeing a
17:44:17 18 drum that said Dayton Industrial Drum on it?

17:44:24 19 A. I would have to go back, I don't
17:44:29 20 know.

17:44:29 21 Q. Sometime in the '70s?

17:44:32 22 A. Yeah. Yes. Yes.

17:44:36 23 Q. At what period of time did you see
17:44:38 24 those drums up until?

17:44:47 25 A. Mid '70s.

17:44:49 1 Q. So sometime starting in the '70s
17:44:51 2 until the mid '70s you saw drums that indicated
17:44:55 3 they were from Dayton Industrial Drums?

17:44:58 4 A. Yes.

17:44:59 5 Q. Now, let's talk about who was
17:45:01 6 bringing those drums there. Other companies
17:45:03 7 brought drums into the South Dayton Landfill,
17:45:06 8 didn't they?

17:45:07 9 A. Yes.

17:45:07 10 Q. All right. Which companies do you
17:45:11 11 recall bringing drums to the South Dayton
17:45:20 12 Landfill?

17:45:20 13 A. Delco Products, Frigidaire,
17:45:28 14 Inland. In my mind, that would be about it.

17:45:38 15 Q. How about Delphi and GM?

17:45:43 16 A. GM, yes. Yes.

17:45:46 17 Q. And those other companies could
17:45:48 18 bring drums to the landfill, some of them even
17:45:51 19 had keys to the landfill, didn't they?

17:45:54 20 A. Some of them what?

17:45:54 21 Q. Had keys to the landfill for -- to
17:45:56 22 come in at night?

17:45:57 23 A. Yes.

17:45:57 24 Q. Which ones had keys to the
17:46:00 25 landfill that also delivered drums to the

17:46:03 1 landfill?

17:46:13 2 A. I want to say Delco and maybe
17:46:13 3 Delphi.

17:46:21 4 Q. And how often were those companies
17:46:23 5 bringing drums to the landfill?

17:46:27 6 A. Once a week.

17:46:30 7 Q. How do you know -- when you see a
17:46:37 8 Dayton Industrial Drum drum, how do you know
17:46:41 9 it? What's it look like?

17:46:42 10 A. Well, I think I mentioned
17:46:44 11 yesterday, there was a slip that would be on
17:46:47 12 the side of the drum that was taped to plastic,
17:46:49 13 and I think there was mentioned another
17:46:50 14 company, too, that had the contents and where
17:46:55 15 it came from.

17:46:56 16 Q. All right. Are there any markings
17:46:57 17 though on the drum itself?

17:46:58 18 A. No. No. No.

17:47:00 19 Q. All right. So there would be a
17:47:02 20 slip on the drum that would say where it came
17:47:05 21 from or what it was?

17:47:06 22 A. Right.

17:47:06 23 Q. And it could be either of those,
17:47:09 24 this is a drum from a certain company or this
17:47:12 25 is what it is?

17:47:13 1 A. Yes.

17:47:15 2 Q. Are there any other markings on
17:47:17 3 the drums themselves?

17:47:18 4 A. Yes.

17:47:18 5 Q. All right. What other markings
17:47:22 6 would be on the drums to indicate it came from
17:47:25 7 or was affiliated with Dayton Industrial Drum?

17:47:28 8 A. It would not.

17:47:40 9 MR. PIERCE: I think that's all I
17:47:41 10 have for you. Thank you.

17:47:43 11 THE WITNESS: Thank you.

17:47:46 12 MR. ROMINE: Is there anybody else in
17:47:47 13 the room that has questions for the witness? Is
17:47:53 14 there anyone on the telephone that has questions
17:47:56 15 for the witness?

17:47:57 16 MR. SHARETT: This is Anthony
17:47:59 17 Sharett. I have a few questions on behalf of
17:48:02 18 DP&L.

17:48:02 19 MR. ROMINE: Are you ready to go
17:48:02 20 ahead?

17:48:02 21 CROSS-EXAMINATION

17:48:02 22 BY MR. SHARETT:

17:48:11 23 Q. Sir, my name is Anthony Sharett on
17:48:13 24 behalf of DP&L. I just have a few questions.

17:48:17 25 I believe earlier you testified

17:48:18 1 that you thought or anticipated that you may
17:48:22 2 have a chance to own the South Dayton Dump at
17:48:26 3 one time, is that correct?

17:48:27 4 A. Correct.

17:48:27 5 Q. And before I continue, just let me
17:48:29 6 make sure, it's late in the day here, I guess
17:48:32 7 close to six o'clock here. You're still able
17:48:34 8 and feeling well enough to answer just a few
17:48:36 9 questions?

17:48:36 10 A. Yes, sir.

17:48:37 11 Q. Okay. And let me ask you, had you
17:48:41 12 actually been able to garner ownership of the
17:48:45 13 site, what would you have done with the site?

17:48:47 14 MR. ROMINE: Objection.

17:48:52 15 Hypothetical. Form of the question.

17:48:54 16 THE WITNESS: I planned to operate it
17:48:57 17 pretty much in my manner, but I -- I would have
17:49:01 18 changed a few things.

17:49:03 19 BY MR. SHARETT:

17:49:03 20 Q. What would you have changed?

17:49:04 21 MR. ROMINE: Same objection.

17:49:07 22 THE WITNESS: I would have -- I had
17:49:09 23 a -- a drawing of how I wanted to puts slabs, like
17:49:16 24 the skids, and recycle more of the material.

17:49:20 25 As I got older, I learned that wood

17:49:24 1 and stuff like that can be pulverized and made
17:49:27 2 into mulch. Tires could be shredded into -- go
17:49:32 3 into asphalt and so on and so forth.

17:49:35 4 BY MR. SHARETT:

17:49:35 5 Q. So you would have tried to
17:49:37 6 repurpose some of the items that were brought
17:49:39 7 to the dump?

17:49:39 8 MR. ROMINE: Same objection.

17:49:41 9 THE WITNESS: Correct.

17:49:43 10 BY MR. SHARETT:

17:49:43 11 Q. What else would you -- what else
17:49:44 12 would you have done differently?

17:49:46 13 MR. ROMINE: Same objection.

17:49:46 14 BY MR. SHARETT:

17:49:53 15 Q. You said you would have done a few
17:49:55 16 things differently. I'm just trying to --
17:49:55 17 you've told me one. What else?

17:49:57 18 MR. ROMINE: Same objection.

17:50:03 19 THE WITNESS: There's con -- concrete
17:50:04 20 that -- and they're doing it today that can be
17:50:08 21 pulverized, I think that's the right word, broken
17:50:11 22 up and reused, so just -- I would purchase those
17:50:16 23 machines, what are very expensive, and I talked to
17:50:20 24 it -- about it with a gentleman that had a
17:50:23 25 landfill down in West Carrollton, and we kind of

17:50:26 1 had a idea of what we were going to do.

17:50:30 2 BY MR. SHARETT:

17:50:31 3 Q. And the gentleman that you talked
17:50:33 4 to was -- what line of business was he in?

17:50:36 5 A. In -- in the same business as
17:50:40 6 Alcine, he -- he had a landfill.

17:50:43 7 Q. And when did you have that
17:50:46 8 conversation?

17:50:48 9 A. In the early '80s.

17:50:51 10 Q. And how many times did you talk
17:50:52 11 with him about this topic?

17:50:55 12 A. Half a dozen.

17:50:59 13 Q. And what happened?

17:51:04 14 A. He mentioned to me that if I went
17:51:06 15 to Dad and asked for two million dollars to buy
17:51:11 16 the -- the one that breaks up the skids and
17:51:14 17 stuff for mulch and -- and other products and
17:51:19 18 the one for the concrete.

17:51:22 19 Q. And so you would have tried to
17:51:29 20 break down some of the materials to repurpose
17:51:30 21 it, but you still would have run it as a
17:51:33 22 landfill, correct?

17:51:33 23 MR. ROMINE: Objection.
17:51:34 24 Hypothetical.

17:51:35 25 THE WITNESS: Correct.

17:51:37 1 BY MR. SHARETT:

17:51:37 2 Q. And that means you still would
17:51:39 3 have allowed people to pay the company in order
17:51:44 4 to deliver items at the dump, correct?

17:51:46 5 MR. ROMINE: Same objection.

17:51:46 6 THE WITNESS: I had more of an idea
17:51:50 7 that if it was -- I would like to have done it --
17:51:54 8 because the incinerator and stuff at that
17:51:56 9 particular time was in operation, and I was
17:52:00 10 wanting to dump for free.

17:52:02 11 BY MR. SHARETT:

17:52:03 12 Q. Okay. But you still would have
17:52:04 13 operated as a dump, correct?

17:52:05 14 A. Yes.

17:52:05 15 MR. ROMINE: Same objection. Give me
17:52:07 16 time to object.

17:52:07 17 Q. Okay. And what was -- I'm sorry.
17:52:09 18 You were answering while there was an
17:52:11 19 objection. What did you -- and I'm on the
17:52:12 20 phone, so what did you say?

17:52:14 21 A. Yes.

17:52:15 22 Q. Okay. So I think you had also
17:52:19 23 testified that -- and I believe this was
17:52:21 24 yesterday, that, you know, you were wanting to
17:52:26 25 testify to clear your conscience regarding

17:52:29 1 operating the dump, correct?

17:52:30 2 A. Correct.

17:52:31 3 Q. And so I'm just trying to
17:52:34 4 reconcile the two, because on the one hand, you
17:52:37 5 say that you thought that you may -- you were
17:52:41 6 looking forward to owning the dump and running
17:52:42 7 it as a dump, but on the other, you say you're
17:52:46 8 here to testify to clear your conscience
17:52:47 9 regarding what happened at the dump.

17:52:50 10 Can you explain to me how you were
17:52:53 11 able to sort of reconcile those differences?

17:52:55 12 MR. ROMINE: Objection. Relevance.

17:52:57 13 THE WITNESS: Well, it would -- I
17:53:00 14 don't know if it sounds obvious, but you heard me
17:53:03 15 say that I would very seldom -- everything has a
17:53:09 16 use in this -- on this planet. We haven't just
17:53:13 17 found ways to use it, so I felt it would be to the
17:53:19 18 earth's best interests to recycle as much as
17:53:21 19 possible, which we're doing today, and eventually
17:53:26 20 digging up the dump and getting some of the --
17:53:30 21 because there are a lot of material that was done
17:53:33 22 earlier that -- that was quickly dumped without
17:53:35 23 knowing that some of the other products, like
17:53:38 24 glass and stuff like that, had a purpose.

17:53:41 25 So I was -- I was looking forward to

17:53:44 1 the future and making it done right so my
17:53:49 2 conscience, I felt that would help do that.

17:53:54 3 BY MR. SHARETT:

17:53:55 4 Q. Switch gears a little bit and talk
17:53:58 5 about your health. It's been covered, I think,
17:54:01 6 at length over the last -- the last two days,
17:54:03 7 so I'm not going to belabor the point, but
17:54:08 8 your -- your physician that you see for your
17:54:09 9 pancreatitis, what was his name again?

17:54:12 10 MR. ROMINE: Asked and answered.

17:54:16 11 THE WITNESS: Al Samkari.

17:54:16 12 BY MR. SHARETT:

17:54:18 13 Q. And where's he -- where does he
17:54:20 14 practice, what city?

17:54:21 15 A. Dayton, Ohio.

17:54:22 16 Q. And when's the last time you've
17:54:26 17 seen that physician?

17:54:28 18 A. It would have been on the 4th of
17:54:33 19 this month.

17:54:35 20 Q. And -- and is that physician a
17:54:41 21 specialist?

17:54:43 22 A. I'm not sure.

17:54:48 23 Q. Does he specialize in dealing with
17:54:51 24 patients that have pancreatitis?

17:54:53 25 MR. ROMINE: Asked and answered.

17:54:55 1 THE WITNESS: I know he's a
17:54:56 2 general -- general doctor, so I -- I guess that
17:55:00 3 would put him in that category, I'm not sure.

17:55:03 4 BY MR. SHARETT:

17:55:03 5 Q. But do you -- you don't know if he
17:55:05 6 specializes in dealing with people that have
17:55:07 7 your condition?

17:55:08 8 MR. ROMINE: Asked and answered.

17:55:09 9 THE WITNESS: I would say I don't
17:55:13 10 know.

17:55:13 11 BY MR. SHARETT:

17:55:13 12 Q. You don't know. Well, I don't
17:55:15 13 want you to guess. If you don't know, you
17:55:15 14 don't know.

17:55:17 15 A. I don't know.

17:55:17 16 Q. Is -- were you referred to him by
17:55:20 17 another physician?

17:55:20 18 A. No.

17:55:22 19 Q. Okay. So how did you find him?

17:55:28 20 A. He's a doctor that I had seen back
17:55:33 21 in the early '70s at Miami Valley Hospital.
17:55:39 22 Then just recently, we reunited meeting
17:55:45 23 together, and he's the one, well, you might
17:55:49 24 recall that I said, sent me down to Marco
17:55:52 25 Island in Florida to redo a house for him.

17:55:57 1 Q. Okay. So when you saw him in the
17:56:01 2 '70s or whatever that was initially, what did
17:56:04 3 you see him for?

17:56:05 4 A. For the alcoholism.

17:56:07 5 Q. Okay. So -- and does he have a
17:56:11 6 private practice or is he part of a hospital or
17:56:14 7 something like that?

17:56:15 8 A. To my knowledge, at first, in the
17:56:20 9 '70s, he was head of the alcohol and
17:56:25 10 psychiatric -- or just the alcohol ward of
17:56:28 11 Miami Valley Hospital. It's called the care
17:56:30 12 unit.

17:56:31 13 Q. Have you seen any other physician
17:56:36 14 that specializes in the pancreatitis that
17:56:39 15 you've said that you've -- that you have?

17:56:41 16 A. Other than the ERs, no.

17:56:45 17 Q. Are you planning on doing that?

17:56:48 18 A. Yes, I am.

17:56:50 19 Q. How did you pay for the medical
17:56:53 20 care that you received by this -- by the
17:56:56 21 physician that you saw a few weeks -- or about
17:56:58 22 a month ago?

17:57:01 23 A. Because of my work arrangement
17:57:04 24 with him, he -- he didn't charge me.

17:57:13 25 Q. The investigator that we've talked

17:57:15 1 about, is -- what's his last name? Mr. Walsh,
17:57:18 2 is that his name?

17:57:19 3 MR. ROMINE: Asked and answered.

17:57:22 4 THE WITNESS: Correct.

17:57:22 5 BY MR. SHARETT:

17:57:22 6 Q. Okay. How many times have you met
17:57:28 7 with him?

17:57:29 8 MR. ROMINE: Asked and answered.

17:57:36 9 THE WITNESS: A dozen times.

17:57:38 10 BY MR. SHARETT:

17:57:38 11 Q. Where do you meet with him?

17:57:44 12 A. Various locations.

17:57:47 13 Q. Well, give me a couple.

17:57:51 14 A. Probably most of them are at Old
17:57:55 15 Hickory restaurant here in Dayton.

17:57:58 16 Q. And how does he get in touch with
17:58:00 17 you to -- to have your meetings?

17:58:03 18 MR. ROMINE: Asked and answered.

17:58:04 19 THE WITNESS: Phone.

17:58:09 20 BY MR. SHARETT:

17:58:09 21 Q. And he pays for those meals where
17:58:11 22 you eat, correct?

17:58:12 23 A. Correct.

17:58:14 24 Q. Does he pay for anything else?

17:58:16 25 A. No.

17:58:20 1 Q. Have you talked with any other
17:58:22 2 investigators about this case, other than him?

17:58:25 3 A. No.

17:58:36 4 Q. You had mentioned that I think --
17:58:39 5 correct me if I'm wrong -- with the University
17:58:43 6 of Dayton, that you may have -- it may have
17:58:46 7 been difficult for you to separate this case
17:58:48 8 with some personal issues you may have had.
17:58:50 9 Was that the correct party, the University of
17:58:50 10 Dayton?

17:58:55 11 A. Yes.

17:58:56 12 MR. ROMINE: Asked and answered.

17:58:57 13 BY MR. SHARETT:

17:58:58 14 Q. Is that correct?

17:58:58 15 A. Yes.

17:59:00 16 MR. SHARETT: Okay. And just -- I
17:59:03 17 mean, this -- for the -- for the attorney who's
17:59:07 18 objecting, just -- I mean, it's okay to ask a
17:59:11 19 question that's been asked and answered before,
17:59:13 20 just -- that happens all the time, particularly
17:59:15 21 when you're trying to ask a line of questions, but
17:59:18 22 you can continue to object all day, that's fine,
17:59:20 23 we've been doing it for nine hours.

17:59:22 24 BY MR. SHARETT:

17:59:22 25 Q. Do you have those biases, sir,

17:59:26 1 against any of the other companies that we've
17:59:29 2 talked about today, any similar biases against
17:59:32 3 any other companies like you may have against
17:59:34 4 the University of Dayton?

17:59:36 5 And take your time on this,
17:59:37 6 because you've named a lot of companies so, you
17:59:40 7 know, just -- are there any other companies
17:59:43 8 that you think that you may feel a little
9 conflicted?

10 A. Yes.

11 (Thereupon, the court reporter
12 interrupted the proceedings.)

13 (Pause in proceedings.)

18:02:56 14 BY MR. SHARETT:

18:02:56 15 Q. All right. So I think we're back
18:02:59 16 on the record. I think what I was asking you
18:03:01 17 before we had to change the tape there was,
18:03:05 18 were there any other parties that we've talked
18:03:07 19 about today that you named where you may feel a
18:03:11 20 little conflict because of some personal
18:03:13 21 feelings you may have about the company, and I
18:03:14 22 think you answered the question, so I'm asking
18:03:17 23 you, who are those companies?

18:03:19 24 A. What's the word I want to use?

18:03:25 25 You guys, DP&L.

18:03:28 1 Q. Okay. Who else?

18:03:30 2 A. That's it.

18:03:32 3 Q. All right. And what's your issue
18:03:35 4 with DP&L?

18:03:39 5 A. The first one was, I tried to get
18:03:42 6 gas back in the '70s, I believe, in one of the
18:03:47 7 houses that my father had given me through the
18:03:51 8 houses we got through HUD, and at that time,
18:03:54 9 they were trying to go all electric, and it
18:04:00 10 took my dad to doing -- to get a meter. That
18:04:03 11 was the first instance.

18:04:04 12 And then through my life, I was
18:04:05 13 just struggling with my alcoholism and -- and
18:04:09 14 tight with money, I was shut off so many times.
18:04:12 15 A few times it got pretty dangerous, so I felt
18:04:16 16 bad about that situation. Then the last was
18:04:21 17 the dealings with DP&L with my father.

18:04:27 18 Q. All right. So you've described,
18:04:33 19 what I count, three separate situations where
18:04:35 20 you feel like you've had sort of a negative
18:04:37 21 experience with Dayton Power and Light, is that
18:04:39 22 correct?

18:04:39 23 A. Correct.

18:04:40 24 Q. The first one was you said that
18:04:43 25 you tried to get -- deal with them in the 1970s

18:04:48 1 with your dad. Could you talk about that
18:04:52 2 instance a little more so I can -- provide me a
18:04:54 3 little more detail, if you don't mind.

18:04:56 4 A. Well, I mentioned that we
18:04:57 5 purchased six HUD houses, and for my hard work,
18:05:01 6 Dad gave me one of the houses, and that
18:05:03 7 particular house, the meter was either taken
18:05:07 8 out or stolen. After I remodeled the house, I
18:05:11 9 just assumed we'd get a meter.

18:05:13 10 When I got done, I couldn't get
18:05:15 11 one because it was some kind of ruling you had
18:05:18 12 to go to all electric at that time, so
18:05:24 13 that's --

18:05:24 14 Q. And DP&L, Dayton Power and Light,
18:05:26 15 just to be clear, was supplying the power for
18:05:29 16 the meter?

18:05:31 17 A. Yes. At that time, Dayton Power
18:05:33 18 and Light was not only electric, but it was the
18:05:36 19 gas.

18:05:36 20 Q. So for that particular case, we're
18:05:39 21 talking about gas, correct?

18:05:41 22 A. Yes.

18:05:41 23 Q. Okay. And what was the result of
18:05:44 24 that situation?

18:05:47 25 A. Dad made some phone calls to DP&L,

18:05:52 1 and Dad had been nice enough to let them use
18:05:56 2 part of the dump, and he owned some property
18:06:00 3 adjacent to DP&L, and said if they graveled it
18:06:04 4 and put a fence around it, they could use that
18:06:07 5 to their leisure, and Dad just said, if you
18:06:12 6 can't get us a meter over here, then move your
18:06:16 7 vehicles.

18:06:16 8 Q. Um-hum. And so how did that make
18:06:20 9 you feel?

18:06:22 10 A. In which way?

18:06:25 11 Q. I mean, after -- you know, you
18:06:26 12 said that this may have impacted your feelings
18:06:29 13 towards DP&L. I'm trying to figure out how --
18:06:32 14 how they impacted your feelings.

18:06:34 15 As you can imagine, this may be
18:06:35 16 important to my client, so how did that impact
18:06:38 17 you?

18:06:38 18 A. Well, like I said, two ways. One
18:06:40 19 way was that I was frustrated because the time
18:06:43 20 we were living and -- and the reaction I got
18:06:46 21 from whoever I talked to on the phone at that
18:06:51 22 particular time, but relieved and proud of my
18:06:53 23 dad that -- for he was able to have a hold on
18:06:55 24 the situation.

18:06:57 25 Q. And I believe the second scenario

18:07:03 1 you gave me was that due to your alcoholism, it
18:07:09 2 sounds like DP&L, you said, had shut off your
18:07:12 3 electricity multiple times, is that correct?

18:07:14 4 A. Correct.

18:07:16 5 Q. When did they shut off your
18:07:22 6 electricity?

18:07:23 7 A. Several times. I -- I can't give
18:07:26 8 you specific, but I do remember 1978 to be for
18:07:31 9 sure.

18:07:35 10 Q. And was that for nonpayment?

18:07:37 11 A. Correct.

18:07:38 12 Q. And where were you living where
18:07:43 13 that electricity was shut off in 1978?

18:07:47 14 A. Be -- I think it was 75 Anderson
18:07:59 15 Street off of -- off of Wayne Avenue.

18:08:01 16 Q. Is that in Dayton?

18:08:03 17 A. Yes.

18:08:03 18 Q. And it sounds like subsequent to
18:08:07 19 that or after that, DP&L has shut off your
18:08:11 20 electricity as well?

18:08:12 21 A. Correct.

18:08:12 22 Q. And was that ballpark time in the
18:08:17 23 '80s, '90s, 2000s? When did -- when did these
18:08:20 24 instances occur?

18:08:20 25 A. '70s and '80s.

18:08:24 1 Q. Approximately how many times did
18:08:25 2 that happen?

18:08:28 3 A. When I couldn't pay it.

18:08:31 4 Q. Well, sir, your memory has been
18:08:33 5 excellent over the past few days, so I'm just
18:08:35 6 going to assume that if your electricity is cut
18:08:37 7 off, you're going to know when that was, so
18:08:40 8 I'll ask again.

18:08:41 9 In the '80s, '90s about how --
18:08:44 10 '70s, '80s and '90s, approximately how many
18:08:45 11 times was your electricity shut off by Dayton
18:08:48 12 Power and Light?

18:08:50 13 A. Well, as you mentioned, I been on
18:08:51 14 this seat for nine hours and I'm tired and I
18:08:54 15 well can't think as well as probably I should,
18:08:56 16 but I'll do as best as I can for you.

18:09:01 17 Q. To the -- to the extent that you
18:09:02 18 can.

18:09:17 19 A. 1970.

18:09:20 20 Q. Okay.

18:09:28 21 A. '74. I mentioned '78 already.

18:09:40 22 Q. Okay.

18:09:42 23 A. And around the time frame of '81
18:09:46 24 and '82.

18:09:50 25 Q. All right. So I count at least

18:09:55 1 five separate years where your electricity was
18:09:58 2 cut off by DP&L because your bill wasn't paid,
18:10:02 3 correct?

18:10:03 4 MR. ROMINE: Objection.
18:10:04 5 Mischaracterizes his testimony.

18:10:06 6 THE WITNESS: Correct.
18:10:06 7 BY MR. SHARETT:

18:10:06 8 Q. I'm sorry?

18:10:06 9 A. Correct.

18:10:07 10 Q. All right. And when -- you know,
18:10:11 11 when DP&L shut off your electricity, how did
18:10:12 12 that make you feel?

18:10:17 13 A. Obviously I blamed myself because
18:10:20 14 I didn't have accurate funds for whatever
18:10:22 15 reason, but I felt there was no wiggle room on
18:10:28 16 negotiation for whatever -- for whatever
18:10:31 17 reason.

18:10:33 18 Q. Just kind of feel like DP&L didn't
18:10:35 19 work with you enough?

18:10:36 20 A. Correct.

18:10:38 21 Q. All right. And then the last
18:10:40 22 instance you gave, you said that dealt with
18:10:43 23 DP&L and your father, did I get that right?

18:10:46 24 A. Correct.

18:10:47 25 Q. Talk to me about that. What is

18:10:49 1 that about?

18:10:51 2 A. Most -- mostly on parking
18:10:57 3 instance -- instant -- parking things where
18:11:00 4 they were parking vehicles. That was the
18:11:08 5 main -- pretty much the main issue.

18:11:10 6 Q. I'm sorry. That doesn't really
18:11:14 7 tell me what that means. Could you kind of
18:11:17 8 expand upon that? Parking vehicles, what do
18:11:19 9 you mean by that?

18:11:20 10 A. Well, they were dumping the
18:11:23 11 long -- longer trucks with maybe big spools on
18:11:25 12 it, and it was between the pit that was
18:11:31 13 being -- that -- what do you call it, the sand
18:11:36 14 and gravel sticking out and the dump, and
18:11:39 15 sometimes they would block the entrance which
18:11:43 16 would lead to the site in which they needed to
18:11:47 17 go up and down the road to get -- get the sand
18:11:50 18 and gravel, and it angered him, you know, if --
18:11:55 19 if they couldn't get down there.

18:11:58 20 Q. You gave a deposition, I believe,
18:12:01 21 last year where -- when you were asked a lot of
18:12:04 22 questions about Dayton Power and Light,
18:12:06 23 correct?

18:12:07 24 A. Last year?

18:12:09 25 Q. 2012.

18:12:10 1 A. Oh, 2012. And what was the
18:12:13 2 question again?

18:12:14 3 Q. Did you -- in the prior deposition
18:12:16 4 that you took, did you answer questions
18:12:19 5 regarding your knowledge about Dayton Power and
18:12:22 6 Light?

18:12:24 7 A. I don't recall.

18:12:25 8 Q. You don't remember?

18:12:27 9 A. No.

18:12:28 10 Q. Let me ask you a different
18:12:30 11 question. Do you think that -- do you think
18:12:33 12 that you could be fair when talking about
18:12:37 13 DP&L's involvement in this lawsuit given your
18:12:41 14 previous history that we've just discussed
18:12:44 15 regarding what happened with the HUD houses and
18:12:47 16 what happened with the termination of your
18:12:49 17 electricity?

18:12:49 18 A. Yes, I could.

18:12:52 19 Q. How can you do that?

18:12:56 20 A. Being sober as long as I am now,
18:12:59 21 that one of the ways of staying sober is live
18:13:09 22 and let live. There's a lot of variability --
18:13:11 23 or variables on my process of staying sober,
18:13:19 24 one which is -- one of the sayings is like
18:13:25 25 animosity will get you drunk again, something

18:13:28 1 like that, but I can't remember, but that's --
18:13:31 2 that's the -- that's the main reason I'm trying
18:13:32 3 to take what was my -- my fault and what --
18:13:40 4 other people's fault and forget about it.

18:13:45 5 Q. And you think you can -- you can
18:13:47 6 do that despite the fact you had -- you had
18:13:51 7 some of those ill feelings about Dayton Power
18:13:53 8 and Light given your previous experiences with
18:13:56 9 them?

18:13:57 10 MR. ROMINE: Asked and answered.

18:13:58 11 THE WITNESS: Yes, sir.

18:13:59 12 MR. SHARETT: Okay. I have no
18:14:00 13 further questions.

18:14:02 14 MR. ROMINE: Was there any other
18:14:03 15 lawyer on the phone that had questions for Mr.
18:14:07 16 Grillot?

18:14:07 17 MS. HUNT: Ann Hunt for Day
18:14:13 18 International. No, I have no questions at this
18:14:14 19 time. Thank you.

18:14:20 20 MR. ROMINE: Anyone else on the
18:14:20 21 phone? Does anyone else here in the room have any
18:14:25 22 questions for Mr. Grillot? The deposition is
18:14:28 23 concluded.

18:14:28 24 (Thereupon, an off-the-record
18:14:28 25 discussion was had.)

18:15:33 1 MR. HAUGHEY: I had a brief
18:15:34 2 conversation with David here about the photographs
18:15:40 3 that were marked at Mr. Grillot's 2012 deposition.
18:15:45 4 I forget the exhibit numbers, but they're the
18:15:49 5 photographs of the buildings that I took him
18:15:50 6 through.

18:15:50 7 I did not mark them as separate
18:15:53 8 deposition exhibits in this case, but I think we
18:15:55 9 have an agreement that those exhibits in the prior
18:16:00 10 case can be used here.

18:16:04 11 MR. ROMINE: That could be -- that
18:16:04 12 could be deemed as exhibits in this case, too.

18:16:09 13 MR. HAUGHEY: Yeah, the -- just the
18:16:09 14 photographs. Does anybody got a problem with
18:16:13 15 that? If so, I want to hear it, just so I know
18:16:17 16 whether or not I want to mark them here and ask
18:16:19 17 the witness to simply testify to them.

18:16:22 18 If there's any issues with it, we
18:16:22 19 might as well get it out.

18:16:25 20 MR. COUGHLIN: You're only asking
18:16:26 21 about using the photographs?

18:16:28 22 MR. HAUGHEY: Correct.

18:16:33 23 MR. COUGHLIN: No objection.

18:16:34 24 MR. EDDY: None. We have that on the
18:16:35 25 record then. And I would simply say none of us

18:16:42 1 here represent you, Mr. Grillo, we appreciate
18:16:43 2 your patience here with all of us. And I'll
18:16:48 3 simply say you have the right to read your
18:16:50 4 transcript.

18:16:52 5 I don't represent you, none of the
18:16:54 6 lawyers in here represent you, as I understand it,
18:16:59 7 but you're allowed to read your transcript to make
18:17:00 8 sure that the court reporter accurately took down
18:17:02 9 your responses to the questions, or to make any
18:17:06 10 corrections to that. You can do that, to read it
18:17:11 11 and -- or you can waive that right.

18:17:11 12 If you want to read it and you don't
18:17:11 13 read it after a certain time, it's automatically
18:17:11 14 waived, I believe, under the rules, but you'll
18:17:22 15 have to tell the court reporter that on your own,
18:17:23 16 what you want to do or not do.

18:17:25 17 THE WITNESS: Okay. Thank you.

18:17:29 18 MR. HAUGHEY: Do we have an agreement
18:17:31 19 or stipulation as to the amount of time that he
18:17:32 20 will have to review?

18:17:34 21 MR. ROMINE: The default is 30 days.

18:17:36 22 MR. HAUGHEY: Right, I understand the
18:17:37 23 default, yeah. So we're going to go with the
18:17:37 24 default?

18:17:37 25 MR. ROMINE: Yeah.

18:17:39 1 MR. HAUGHEY: Okay. That's fine.

18:17:42 2 MR. EDDY: You need to let the court
18:17:42 3 reporter know what you want to do.

18:17:42 4 THE WITNESS: Okay. I would like a
18:17:42 5 copy.

18:17:42 6 THE COURT REPORTER: He'll have to
18:17:47 7 come to my office and read it.

8 THE WITNESS: Pardon me?

9 THE COURT REPORTER: You'll have to
10 come to my office and read it. We'll send you a
11 letter.

12 (Thereupon, an off-the-record
13 discussion was had.)

18:18:21 14 THE WITNESS: I don't want to read
18:18:23 15 it.

18:18:23 16 (Thereupon, the deposition was
18:18:23 17 concluded at 6:18 p.m.)

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1 STATE OF OHIO)

2 COUNTY OF MONTGOMERY) SS: CERTIFICATE

3 I, Barbara A. Nikolai, a Notary
4 Public within and for the State of Ohio, duly
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the
7 above-named EDWARD GRILLOT, was by me first duly
8 sworn to testify the truth, the whole truth and
9 nothing but the truth.

10 Said testimony was reduced to
11 writing by me stenographically in the presence
12 of the witness and thereafter reduced to
13 typewriting.

14 I FURTHER CERTIFY that I am not a
15 relative or Attorney of either party, in any
16 manner interested in the event of this action,
17 nor am I, or the court reporting firm with which
18 I am affiliated, under a contract as defined in
19 Civil Rule 28(D).

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1 IN WITNESS WHEREOF, I have hereunto set
2 my hand and seal of office at Dayton, Ohio, on
3 this 30th day of December, 2013.

4
5
6 _____
7 BARBARA A. NIKOLAI
8 NOTARY PUBLIC, STATE OF OHIO
9 My commission expires 12-13-2018
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